

# A STUDY OF **TRADE UNIONS** EFFECTIVENESS IN MALAYSIA



**Institute of Labour Market Information and Analysis (ILMIA)**  
**Ministry of Human Resources**

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# **A STUDY OF TRADE UNIONS EFFECTIVENESS IN MALAYSIA**

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## PREFACE

Trade unionism has been in existence in Malaysia for a very long time. However, to date there have been lacked of comprehensive research being conducted to investigate the state of the movement. Thus, the publication of this book is a product of a pioneering project initiated by the Department of Trade Union Affairs in collaboration with the Institute of Labour Market Information and Analysis under the Ministry of Human Resources Malaysia. In line with the changes anticipated with regards to the movement of trade unions internationally coupled with the implementation of the Trans-Pacific Partnership Agreement, the present study is deemed timely and relevant.

Capitalising on the surveys of trade union members, focus group discussions among employers as well as in-depth interviews with prominent figures, the book reports the trade unions movement and their effectiveness in Malaysia at present state. It is organised thematically into six chapters. Chapter One describes the methodology adopted in the research. Meanwhile, an overview of trade unions movement in Malaysia as well as abroad are presented in Chapter Two. It is then followed by Chapter Three that highlights the findings of the fieldworks conducted nationwide in relation with the trade unions effectiveness in Malaysia. Chapter Four demonstrates the general views of the trade unions members as well as employers on the Trans-Pacific Partnership Agreement and its implementation with respect to trade unionism in Malaysia. Acknowledging the importance of identifying Malaysia's position with regards to trade unionism globally, Chapter Five discusses the outcomes of the benchmarking exercise with ten selected countries. The book ends with Chapter six that summarises key lessons drawn from the research.

It is hoped that the book will benefit readers particularly students, academicians, researchers, trade unionists, employers and policy makers. The contributions of all those involved in this research project including all the respondents and participants, officers of the Department of Trade Union Affairs, officers of the Institute of Labour Market Information and Analysis and researchers from UNIMAS Holdings Sdn Bhd, trade unions members, employers, representatives of both national trade union and employers' association are of most valuable to the success of this study and the publication.

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## ABBREVIATIONS AND ACRONYMS

AFL-CIO	American Federation of Labor–Congress of Industrial Organizations
ALP	Australian Labour Party
CA	Collective agreement
CB	Collective bargaining
CDU	Christian Democratic Party
CEO	Chief Executive Officer
COMTRAC	Companies Commission of Malaysia Training Academy
DGB	Confederation of German Trade Unions
EFCA	Employee Free Choice Act
EPU	Economic Planning Unit
FKTU	Federation of Korean Trade Unions
FWA	Fairwork Act
FWC	Fair Work Commission
GDP	Gross Domestic Product
GNI	Gross National Income
FMM	Federation of Malaysian Manufacturers
JPP	Department of Industrial Relations
ILMIA	Institute of Labour Market Information and Analysis
ICT	Information and Communication Technology
ILO	International Labour Organisation
ISO	International Standard Organisation
ITUC	International Trade Union Confederation
JHEKS	Department of Trade Union Affairs (Jabatan Hal Ehwal Kesatuan Sekerja)
JPP	Department of Industrial Relations (Jabatan Perhubungan Perusahaan)
JTK	Department of Labour (Jabatan Tenaga Kerja)
KCTU-	Korean Confederation of Trade Unions
KPDNKK	Ministry of Domestic Trade, Co-Operative and Consumerism

LCP	Labour Consistency Plan
MEF	Malaysian Employers Federation
MKM	Co-Operative College of Malaysia
MoHR	Ministry of Human Resources
MTUC	Malaysian Trade Union Congress
NGOS	Non-Government Organisations
NKRA	National Key Results Area
NLAC	National Labour Advisory Council
NLRA	National Labor Relations Act
NLRB	National Labor Relations Board
NTUC	National Trade Union Congress
OECD	Organisation for Economic Co-operation and Development
PAP	People's Action Party
PKI	Indonesia Communist Party
TPPA	Trans-Pacific Partnership Agreement
RCB	Regulatory Compliance Branch
ROB	Registrar of Businesses
ROS	Registry of Society Malaysia (Pendaftar Pertubuhan)
SKM	Malaysia Co-Operative Societies Commission (Suruhanjaya Koperasi Malaysia)
SPD	Social Democratic Party of Germany
SPSS	Statistical Package for Social Sciences
SSM	Companies' Commission of Malaysia (Suruhanjaya Syarikat Malaysia)
TULRA	Trade Union and Labour Relations Adjustment Act
WFTU	World Federation of Trade Union
WOW	World Organisation of Workers

# CHAPTER ONE

## INTRODUCTION: TRADE UNIONS AND INDUSTRIAL RELATIONS SYSTEM

*Mohamad Suhaidi Salleh, Neilson Ilan Mersat, Mohd Azizul Hafiz Jamian & Christopher Perumal*

The industrial relations system of any country is a formal arrangement that establishes and maintains the relationship between employers and employees. Central to the system is the role of government, which acts as the regulating body through passing and enforcing legislation. In Malaysia the system adopted reflects the tripartite principle, practiced in many countries, of bringing together these three key players to address industrial relations issues. As enshrined by the International Labour Organisation (ILO), the involvement of employees and their associations in such direct discussions provides the platform for maintaining a good, harmonious employment relationship at the same time as ensuring that employees' rights are protected.

Trade unions therefore occupy a central role in upholding employees' rights as well as through their collective voice and bargaining power, uplifting their member's interest. Without the presence of the trade unions, employees will have no formal representation to deal with matters affecting them. In productive countries, such as Sweden and Denmark, trade unions play a significant role in achieving good industrial relations and are also perceived to be effective in representing their members. Generally, the trade union movements in Malaysia have not had a significant presence in the Malaysian labour market in particular in terms of the density which has indicated a lower percentage than many other countries including the developed nations and countries with similar economic background.

A few studies have been conducted on union effectiveness in Malaysia. These include; Union Organisation and Effectiveness: An Empirical Study on In-house Union in Malaysia (2010) by Suhaila Mohamed, Faridawati Mohd Samsudin and Husna Johari; Multi-dimensional Approach to Union Effectiveness – Case Studies from Malaysia and Indonesia (2011) by Aryana Satrya and Balakrishnan Parasuraman; The relationship between union organisation and union effectiveness: The role of union as moderator (2015) by Balasubramaniam et al. and Trade unions in Malaysia: Perspectives of employers and employees of unionised companies (2011) by Rose et al.

It is imperative as trade unionism in Malaysia is expected to experience significant changes given the dynamics of the global economy and the implementation of multilateral trade arrangements such as the Trans-Pacific Partnership Agreement (TPPA). Many people do not yet realise that trade unionism is central to the requirements and standards set for members of the trading parties under the TPPA.

TPPA is a comprehensive agreement that serves as a platform for economic growth of member countries and it will have a significant impact on industrial relations including the development of trade unions. In the case of Malaysia, the implementation of TPPA is expected to affect trade union movements significantly. This is because TPPA requires the Malaysian Government to make significant changes to its labour legislation to meet the requirements of the agreement particularly the Labour Chapter. Malaysia has outlined its commitment to fulfil these obligations in tandem with the Labour Consistency Plan (LCP) which is a side letter signed with the United States of America and forms part of the TPPA. Among the changes to be made are legal reforms in the areas concerning freedom of association and the right to collective bargaining. Furthermore, this commitment also encompasses changes in the procedures of trade union registration and cancellation; limitation on the formation of trade unions



across similar trades, occupations or industries, possible affiliation of trade unions with international bodies, restriction on trade union leadership, restriction on the scope of collective bargaining, right to strike and representation in judicial and administrative hearings. These developments have an impact on unionism in the country and trade unions need to be aware of and be prepared for the changes.

This chapter provides the various definitions of trade unions and their roles and functions. Chapter 2 presents the overview of trade unions locally and abroad and highlights the general trend in trade unionism and how they relate to various economic indicators. It also presents the perception of trade unions members as well as employers with regards to trade union movement in the country. Chapter 3 discusses the trade union effectiveness and how they deliver their functions and roles. It also presents the findings from the survey of trade unions members and employers' focus group with regards to the effectiveness of trade unions in Malaysia. Chapter 4 reviews the implications of the TPPA and how it affects trade unionism in the country. It also highlights on the level of awareness and readiness of trade union members with regards to the implementation of TPPA. Chapter 5 provides benchmark of trade unionism in ten countries and how they compare to Malaysian practices.

## **Trade Unions: Definitions and Concepts**

A trade union is an organisation representing workers in the workplace. The Cambridge dictionary defines it as "an organisation that represents the people who work in a particular industry, protects their rights, and discusses their pay and working conditions with employers". Meanwhile, Salomon (2000) provides a theoretical definition of trade union as "any organisation in which the membership consists of employees seeking to organise and represent their interests both in the workplace and society". Similarly, the ILO refers to a trade union as a workers' organisation constituted for the purpose of furthering and defending the interests of workers. In addition to these points, trade unions seek to regulate the employment relationship through the direct process of collective bargaining with management.

In the Malaysian context, the definition of trade union is stipulated in the Trade Unions Act 1959 which is enforced by the Department of Trade Union Affairs. This Act is the main legislation that governs the trade union establishment and operations in Malaysia. The Act defines trade unions in a broad manner encompassing a wide spectrum of workers association and employer's organisations. Hence, in Malaysia, employers not just employees may form their respective trade unions. The Act also stipulates the scope of membership, the geographical jurisdiction (confined within Peninsular Malaysia, Sabah and Sarawak respectively), and the objectives of their establishment. In addition to the Trade Unions Act 1959, the Industrial Relations Act 1967 which uses the same definition also stipulates legal mechanisms to which trade unions have to comply. This legal definition, detailed below, differentiates how a trade union is conceptualised in the context of the Malaysian system (Box 1A).

**Box 1A: Trade Union Definition-The Malaysian Context**

*"trade union" or "union" means any association or combination of workmen or employers, being workmen whose place of work is in West Malaysia, Sabah or Sarawak, as the case may be, or employers employing workmen in West Malaysia, Sabah or Sarawak, as the case may be-*

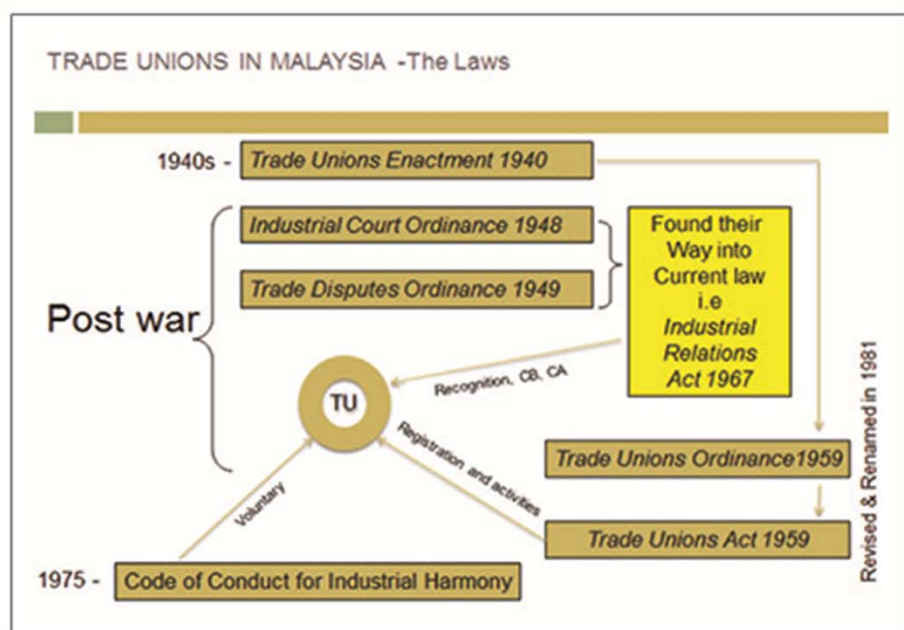
- (a) Within any particular establishment trade, occupation or industry or within any similar trades, occupations or industries; and*
- (b) Whether temporary or permanent; and*
- (c) Having among its objects one or more of the following objects-*
  - (i) regulation of relations between workmen and employers, for the purposes of promoting good and harmonious industrial relations between workmen and employers, improving the working conditions of workmen or enhancing their economic and social status, or increasing productivity;*
    - (ia) the regulation of relations between workmen and workmen, or between employers and employers;*
  - (ii) the representation of either workmen or employers in trade disputes;*
    - (iia) the conducting of, or dealing with, trade disputes and matters related thereto; or*
  - (iii) the promotion or organisation or financing of strikes or lock-outs in any trade or industry or the provision of pay or other benefits for its members during a strike or lock-out;*

The introduction of the Trade Unions Act 1959 and the Industrial Relations Act 1967 replaced a series of prior legislation introduced before Malaysia was formed. The origin of these laws can be traced to the Trade Unions Enactment 1940 being the first law that governed trade unionism in the then Federation States of Malaya. However, this law was unable to be enforced due to the Japanese Occupation in 1941 and only became fully operative with the return of the British administration in September 1945. When the Federation of Malaya was formed in 1948 two other laws that governed industrial relations and trade unionism were introduced. These were the Industrial Court Ordinance 1948 and the Trade Disputes Ordinance 1949. The Industrial Court Ordinance 1948 established an arbitration panel known as the Industrial Court to resolve trade disputes through a voluntary mechanism. On the other hand, the Trade Disputes Ordinance 1949 was enforced by the Government to maintain industrial harmony by keeping close supervision on trade disputes particularly in the essential services.

These Acts continued to be enforced when the Federation of Malaya received its independence in 1957 and expanded to the period when Malaysia was formed in 1963. Only in 1967 were these two Acts abolished with the introduction of the present Industrial Relations Act 1967. Meanwhile, the Trade Unions Enactment 1940 was replaced by the Trade Unions Ordinance 1959 and was extended to Sabah and Sarawak in 1965. It was revised by the Commissioner for Law Revision in 1981 and was renamed the Trade Unions Act 1959. It remains on the statute and is enforced concurrently with the Industrial Relations Act 1967 where the latter pertains to industrial relations such as the process of collective bargaining and collective agreement. In addition to the Act, a voluntary code known as the Code of Conduct for Industrial Harmony influences practice. This Code aims to achieve greater industrial harmony laying down principles and guidelines to employers and employees, including trade unions on the practice of industrial relations. For example, the Code specifies that trade union should maintain cooperation with the employer in promoting efficiency and good industrial relations. The development of the legal framework is summarised in Figure 1.1.



**Figure 1. 1: The Evolution of Laws Governing Trade Union in Malaysia**



Source: Adapted from Ministry of Human Resources, 2016

The most important features of the trade unionism in Malaysia includes the process of its registration, unions' activities, membership structure and solidarity as well as the ability of the union in performing collective bargaining and collective agreement for improvement of terms and conditions of employment. It can be divided into two main groups depending on the sector of employment which is the public and private sector trade unions.

The eligibility to be members of a trade union is also only confined to employees within a particular industry, establishment, trade or occupation. The membership criterion is further only limited within a particular region in Malaysia namely the Peninsular Malaysia, Sabah and Sarawak. Hence, although the employees in these three regions work within a similar industry, establishment, trade or occupation, they are prohibited to form a single trade union to include all employees working within the three regions because of the geographical differences. In addition, trade unions of general in nature are not allowed except within a particular establishment. The current law also limits certain categories of employees to join trade unions including those employed as managers, executives and employees working in confidential or security capacities unless the trade unions are formed within their own categories only. Memberships are also not open to any retiree or those who have left employment. Although foreign employees are allowed to join as ordinary members they are not permitted to hold any position as officers or executives in the trade unions. Similarly, officers of trade unions are prohibited to be appointed among office-bearers or employees of any political party.

Table 1.1 depicts the number of trade unions in Malaysia based on the definition of trade unions under the Trade Unions Act 1959 classified by sector, industry and type i.e. in-house and national. The total number of trade unions in Malaysia as at February 2016 is 718 of which 33.3 percent (239) is in the public sector while 66.7 percent (479) is in the private sector. Of 479 private sector unions, the in-house trade unions constitute the most with 394 unions while the remaining 85 are national unions. The manufacturing and services sectors have the most number of private sector trade unions which reflects the current economic structure of Malaysia. These industries have become the main contributors to economic development replacing the role held by the agricultural sector for decades.

This study focused on the private sector employee's unions only. Employees' trade unions in the public sector (known as government and statutory authority trade unions) and employers' trade unions fall outside of the scope of the study. Private sector trade unions are scattered throughout the countries with Selangor and Kuala Lumpur registering the highest number of trade unions with a total of 154 in-house unions and 42 national unions. The distribution of trade unions is centred around the industrial areas of Johor (47 unions), Selangor (101 unions), Kuala Lumpur (95 unions) and Penang (39 unions). Meanwhile, Sabah and Sarawak have 45 and 38 trade unions respectively (Table 1.2).



**Table 1. 1 Trade Union in Malaysia by Sectors, February 2016**

Industry	Public Sector				Private Sector				Total
	Gov't	No. of Members	Statutory Body	No. of Members	In-house	No. of Members	National	No. of Members	
Agriculture, forestry and fishing	2	1,842	17	13,350	20	10,675	11	49,204	50
Mining and quarrying	-	-	-	-	1	-	2	156	3
Manufacturing	-	-	-	-	140	43,742	27	48,403	167
Electricity, gas, steam and air-conditioning supplies	-	-	-	-	16	9,771	1	160	17
Water supply, sewerage, waste management and remediation activities	-	-	2	1,433	19	7,522	1	-	22
Construction	-	-	-	-	2	885	5	1,476	7
Wholesale and retail trade, repair of motor vehicles and motorcycles	-	-	-	-	32	27,933	4	12,257	36
Transportation and storage	1	245	2	829	66	33,700	8	5,787	77
Accommodation and food service activities	-	-	-	-	12	4,687	5	8,835	17
Information and communications	-	-	2	198	20	3,397	3	10,754	25
Finance and insurance activities	-	-	7	3,791	28	18,676	12	22,651	47
Real estate activities	2	173	1	105	3	-	-	-	6
Professional, scientific and technical activities	-	-	3	1,129	-	-	-	-	3
Administrative and support service activities	-	-	-	-	13	983	1	-	14
Public administration and defence, compulsory social security	81	89,131	37	40,806	5	626	-	-	123
Education	25	313,066	20	15,207	10	1,230	2	18	57
Human health and social work activities	32	59,460	1	2,814	2	2,030	3	3579	38
Arts, entertainment and recreation	-	-	3	-	2	84	-	-	5
Other services activities	-	-	1	-	3	-	-	-	4
<b>Total</b>	<b>143</b>	<b>463,917</b>	<b>96</b>	<b>79,662</b>	<b>394</b>	<b>165,941</b>	<b>85</b>	<b>163,280</b>	<b>718</b>

Table 1.2 Private Sectors Trade Union by Industry and JHEKS State Offices

Industry	Type	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	Total	Total Union	% of Total Unions	No. of Members
Johor	In-house	1	-	30	-	1	1	2	5	1	-	-	1	-	-	-	-	-	1	-	43	47	9.8%	9,870
	National	-	-	2	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	4	-	-	-
Melaka & Negeri Sembilan	In-house	-	-	15	-	3	-	2	-	1	-	-	-	-	-	1	1	-	-	-	23	27	5.6%	10,455
	National	1	-	1	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	4	-	-	-
Selangor & Kuala Lumpur	In-house	2	1	34	6	9	-	20	27	4	13	20	1	-	4	3	7	1	-	2	154	196	40.9%	270,475
	National	5	-	14	-	-	2	2	6	4	2	6	-	-	-	-	-	1	-	-	42	-	-	-
Perak	In-house	1	-	15	-	-	1	3	4	-	-	-	-	-	1	-	-	-	-	-	25	34	7.1%	11,799
	National	1	1	5	-	-	1	-	-	-	-	-	-	-	-	-	-	1	-	-	9	-	-	-
P.Pinang, Kedah & Perlis	In-house	2	-	28	-	3	-	3	6	1	1	-	1	-	-	1	-	1	1	1	49	57	11.9%	23,458
	National	-	-	3	-	-	1	-	2	-	1	-	-	-	-	-	1	-	-	-	8	-	-	-
Pahang	In-house	3	-	9	1	-	-	-	2	3	-	-	-	-	1	-	1	-	-	-	20	22	4.6%	4,765
	National	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-
Terengganu & Kelantan	In-house	3	-	2	1	2	-	-	3	1	-	-	-	-	-	-	-	-	-	-	12	13	2.7%	7,887
	National	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-
Sarawak	In-house	2	-	4	4	-	-	1	10	1	3	3	-	-	4	-	1	-	-	-	33	38	7.9%	11,035
	National	-	-	-	-	-	-	1	-	-	-	3	-	-	-	-	-	1	-	-	5	-	-	-
Sabah & Labuan	In-house	6	-	3	4	1	-	1	9	-	3	5	-	-	3	-	-	-	-	-	35	45	9.4%	17,345
	National	4	-	-	1	-	-	1	-	1	-	3	-	-	-	-	-	-	-	-	10	-	-	-
<b>Total</b>		<b>31</b>	<b>3</b>	<b>167</b>	<b>17</b>	<b>20</b>	<b>7</b>	<b>36</b>	<b>74</b>	<b>17</b>	<b>23</b>	<b>40</b>	<b>3</b>	<b>-</b>	<b>14</b>	<b>5</b>	<b>12</b>	<b>5</b>	<b>2</b>	<b>3</b>	<b>479</b>	<b>479</b>	<b>100%</b>	<b>367,089</b>

1 = Agriculture, forestry and fishing;

2 = Mining and quarrying;

3 = Manufacturing;

4 = Electricity, gas, steam and air-conditioning supplies;

5 = Water supply, sewerage, waste management and remediation activities;

6 = Construction;

7 = Wholesale and retail trade, repair of motor vehicles and motorcycles;

8 = Transportation and storage;

9 = Accommodation and food service activities;

10 = Information and communications;

11 = Finance and insurance activities;

12 = Real estate activities;

13 = Professional, scientific and technical activities;

14 = Administrative and support service activities;

15 = Public administration and defence, compulsory social security;

16 = Education;

17 = Human health and social work activities;

18 = Arts, entertainment and recreation;

19 = Other services activities.



## **Roles and Functions of Trade Unions**

There are six general functions of trade unions which are:- as a source of power, economic regulation, job regulation, social change, services to members and self-fulfilment (Salomon, 2000). Power refers to the ability of a trade union to act as a pressure group within the workplace or labour force through their collective strength. The economic function of a trade union is reflected in its ability to negotiate for maximum wages without sacrificing employment opportunities among its members. In terms of the function pertaining to job regulations, trade unions protect members from management's arbitrary actions by jointly regulating the employment relationship. Trade unions also exist to provide services to their members such as insurance protection. As to its function on providing self-fulfilment to members, this is reflected through providing them with the opportunity to participate in decision making at the workplace.

The above extent of commitments demands that the trade unions should streamline their existence with the government policies to remain relevant. Hence, trade unions in Malaysia need to re-examine their roles beyond their typical conventional approach. For example, since 2011, Malaysia has worked on laying the foundation for unemployment insurance to strengthen the social safety net and protect the unemployed (Economic Transformation Programme, Annual Report, 2013). Van et al. (2011) noted that a similar system known as the Ghent system in Denmark, Finland and Sweden has contributed to a high rate of unionism.

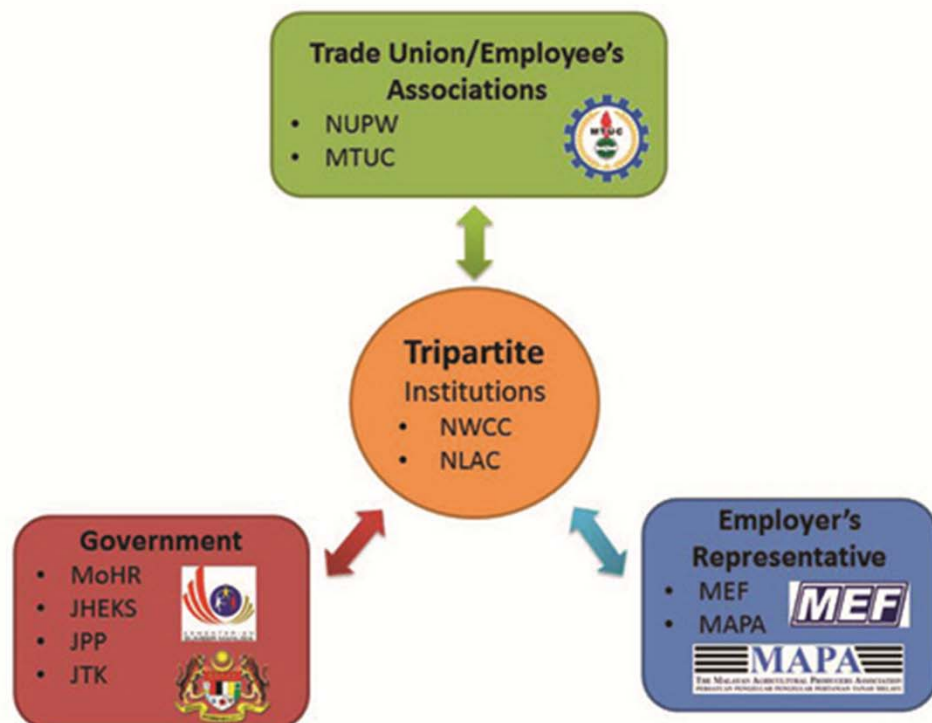
The primary role of trade unions is to represent workers to ensure their welfare. The union members also expect the leadership style to be consistent with meeting unions' policies and objectives. Trade unions in Malaysia are commendable with respect to enhancing industrial relations. However, some trade unions are seen as being weak, divided, and practising confrontational politics within their organisation. This can lead them to experiencing leadership crises and an inability to settle differences (Ramasamy, 2008). This suggests that there is a dire need to further improve the effectiveness of trade unions. Unions in Malaysia need to reflect on their primary roles in representing workers as a strategy to win their members' trust. Union strategies, policies and leadership also contribute to the increase and decrease in unionisation among workers. As shown in a study by Che Rose et al. (2010) employees do not seem to have a positive image on union's effectiveness.

## **Trade Union in a Tripartite System**

Trade union is one of the parties in the tripartite system of industrial relations in Malaysia. They represent employees in many of the tripartite institutions in the country. The examples of trade unions and employees' associations within the tripartite system include the National Union of Plantation Workers (NUPW) and the Malaysian Trade Unions Congress (MTUC). Meanwhile, the employers' interests are represented by entities like the Malaysian Agricultural Producers Association (MAPA) and the Malaysian Employers Federation (MEF). The related government agencies that regulate the tripartite system include the Department of Trade Union Affairs (JHEKS), the Department of Industrial Relations (JPP) and the Department of Labour (JTK). These departments come under the purview of the Ministry of Human Resources (MoHR) being the central government agency responsible for developing and regulating labour and industrial relations laws and policies in Malaysia. The examples of the tripartite institutions in which the MoHR, employees and employers (as represented by their trade unions or associations) are members, include the National Labour Advisory Council (NLAC) and the National Wages Consultative Council (NWCC). NLAC is a forum to consider the input and feedback from employers and employees in matters concerning industrial relations and labour policies in the country while the NWCC is responsible for minimum wage determination. Another example of a tripartite mechanism is the Industrial Court (in

cases where both trade unions and employers' representatives sit as panel) to arbitrate employment related disputes including trade disputes between trade union of employees and their employers or trade union of employers (Figure 1.2).

**Figure 1. 2: The Institution of Tripartite**



## Effectiveness of Trade Union: Components and Conceptual Considerations

The concept of effectiveness is applied to the case of trade unionism in Malaysia and the term used throughout this study is 'trade union effectiveness'. Generally, the definition of 'effectiveness' refers to the ability to be successful and produce the intended results. Thus, the two main components that make up 'effectiveness' are the 'ability to be successful' and 'produce the intended result'. Specifically, trade union effectiveness is attributable to a host of factors such as trade unions' sustainability, its membership and leadership, its objectives, contributions, and achievements or successes. Figure 1.3 represents these factors and their relation to the effectiveness of trade unions.

Figure 1. 3: Union Effectiveness



**Union sustainability.** The ability of a trade union to persevere in its working environment is an important factor that contributes to trade union effectiveness. Both private and public sectors provide different working environments for the workers as well as the trade unions. The current study focuses on the employees and trade unions in the private sector which are commonly challenged by external factors particularly the economic conditions and employer prerogatives. Thus, being able to adapt to these changing work environments could make trade unions more pertinent to the workers.

**Union membership and leadership.** One of the important indicators of trade unions effectiveness is their strength. Strength is a multidimensional concept. Nevertheless, the common ways to measure strength of a trade union is by the size of the membership as well as types of leadership. A trade union that has a large membership among the labour force is considered strong in number. This is usually reported as trade union density. Similarly, a trade union is considered effective if it has a respectable leader. This type of leader is able to serve the members well and, at the same time, maintains productive relationships with the employer. The effectiveness of a trade union is also determined by the degree and character of support on the part of its structures. In addition, the capacity to deliver to its members is determined by the success rate of collective bargaining and agreements.



**Union objectives.** A trade union is pointless and useless without members. Therefore, the primary objective of a trade union formation is to meet its members' need by protecting and promoting their interests. Specifically, this objective is translated into the following roles that include representing workers in negotiation and collective bargaining, workplace disputes and litigation. For example, trade unions voice the interests of their members to the employer with respect to terms and conditions of employment such as pay, working hours, annual leave and public holidays. Trade unions also advocate for members' rights as when representing them in court proceedings particularly in labour related disputes. In summary, objectives outlined by trade unions that are consistent with their members' aspirations do contribute to their effectiveness as a whole.

**Union contribution.** Workers join a trade union partly because they believe that the entity is able to contribute to their welfare and wellbeing with respect to their employment. At the macro-level, trade unions are considered effective if they are able to contribute to and promote industrial harmony at the enterprise, industry and national levels. In addition, trade unions would also be able to provide assistance in terms of labour-related policy formulation.

**Union achievements and successes.** A trade union is considered effective if it is able to achieve its goals successfully. These goals represent the interests of its members. The common measures of trade union success include its ability in conducting collective bargaining activities leading to sound collective agreements and favourable decisions in trade disputes. Trade unions that have good track records and achievements project a positive image to their existing and prospective members. This good reputation will either directly or indirectly help in developing trust or increase the interest of workers to join trade unions or remain as members.

Trade union effectiveness is a multifaceted concept that is attributable to a host of factors. In this study, five main factors are identified and examined. They are translated into items incorporated in both the research instruments i.e. survey questionnaire and focus group question protocols.

## **Approach and Strategies**

The contributions of trade unions in Malaysia are commendable with respect to enhancing industrial relations. However, they are generally small, fragmented, regional and are considered lacking in national development policy (Ramasamy, 2008). This clearly shows that there is a dire need to improve the performance of these unions. This study examined exactly what is needed by adopting both quantitative and qualitative approaches to data collection. Secondary data, survey, focus-group discussions and in-depth interviews were utilised.

## Stakeholders Engagement

Meetings and discussions with stakeholders were conducted at various stages in the course of conducting the study. These meetings and discussions were necessary to find out the problems and issues that may arise and to determine the appropriate strategies and approaches to use in subsequent data collection, analysis and reports (Figure 1.4). The stakeholders included in the discussions were the Department of Trade Union Affairs, the Institute of Labour Market Information and Analysis, trade unions and employers as well as their associations.

Figure 1. 4: Consultation with Stakeholders



The focus of this study is on trade unions effectiveness among the trade union members only. The questionnaire for members has been developed and tested through the process of stakeholders' engagement with both trade unions' leaders and members. This took place in three regions: - Sarawak, Sabah and Selangor. Inputs and recommendations received during the engagement were taken into consideration to improve the questionnaire. It was suggested that the statement in the questionnaire needed to be simplified to ensure that trade union members were able to understand and provide their responses easily. This ensured the accuracy of data collected during the survey as the questionnaire was self-administered. In terms of the Labour Chapter and the LCP, the study focused on the understanding and readiness of trade unions members in Malaysia relating to changes that directly affect the trade union movements including freedom of association, leadership and union formation.

The researchers have collected secondary information to analyse the current situations of trade unionism in Malaysia as well as in several selected countries around the region. First, published reports by the Ministry of Human Resources and various departments within the Ministry of Human Resources specifically the Department of Trade Union Affairs, the Department of Industrial Relations, the Department of Labour, the Industrial Court and other relevant ministries and agencies were analysed and reviewed. The review includes identifying the general trends in the trade unions' movement, collective bargaining, collective agreement and wage negotiations. Second, data and published reports from international institutions including the ILO, the Economic Co-operation and Development (OECD), World Federation of Trade Unions (WFTU), as well as union movements in several selected countries including Indonesia, Korea, Singapore and Germany were reviewed.

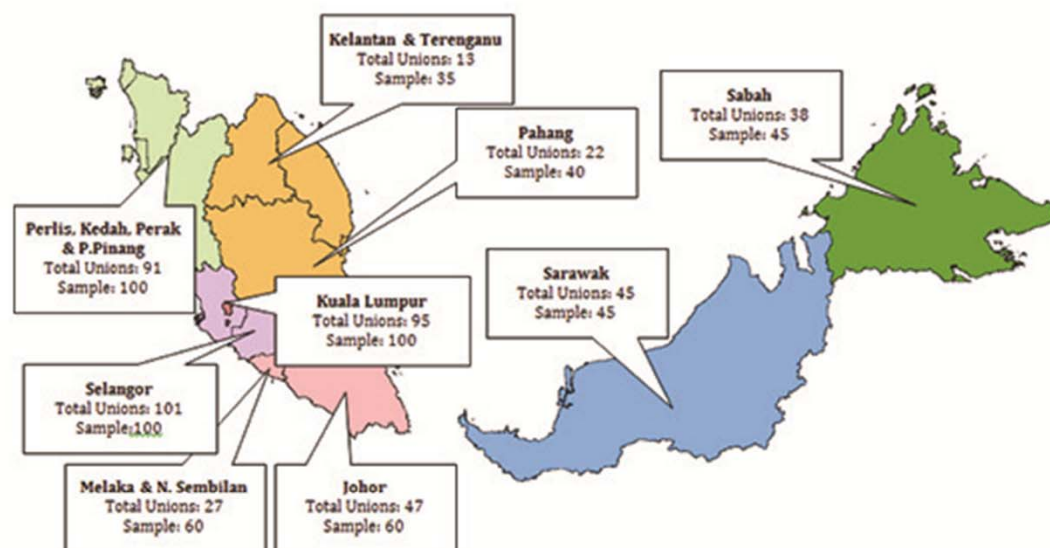


## Survey and Focus Group

**Survey Administration.** The population in this study comprised trade union members in the private sector registered with JHEKS as at February 2016. These trade unions include the in-house and national unions under the purview of the nine JHEKS branches in Malaysia. The survey administration was conducted during the courses organised in collaboration with JHEKS and the Institute of Labour Market Information and Analysis (ILMIA).

The selection of trade unions from which members are drawn was based on industries. By using a systematic stratified sampling technique, the estimated sample size of respondents that represent each region was drawn from the 479 private sector trade unions with a total member of 367,089 across the nine JHEKS branches. According to random sampling rules, the required minimum sample size to be considered as representative of the population is 384 (Krejcie & Morgan 1970). It was indicated that most trade union members are concentrated in the manufacturing and services sector (transportation, finance and insurance, communication and accommodation & food services) and in the agriculture sector. Thus, the sample for this study mirrored such a pattern. Figure 1.5 shows an estimated target sample of respondents by regions and industry that follows the minimum requirement of samples considered as representative. Hence, the estimated sample sizes ranged from as small as 35 for the Terengganu and Kelantan region and as large as 100 each for the Selangor and Kuala Lumpur region. Thus, the total target sample size for this study was 585 members of trade unions.

Figure 1. 5: Regional Classification



Source: Compiled from the Department of Trade Union Affairs, 2016

**Locations of the Survey.** In order to obtain a high number of responses, the questionnaires were distributed during the courses for union members in nine locations shown in Table 1.3 which were jointly organised by JHEKS, ILMIA and the researchers and were completed by using the self-administered method. Of 585 estimated samples, 444 questionnaires were actually collected representing 76 percent return rates (Table 1.3). Nonetheless, these were still above the minimum acceptable number of samples considered to be representative.

**Table 1. 3 Courses Organised by Region**

Course Locations	Members Included (State)	Date	National	In-house	Unstated	Total
Sarawak	Sarawak	23 May 2016	15	22	0	37
Sabah	Sabah	25 May 2016	19	20	2	41
Kedah	Sungai Petani (Pulau Pinang, Kedah, Perlis & Perak)	26 May 2016	21	37	3	61
Terengganu	Terengganu & Kelantan	29 May 2016	3	15	0	18
Johor	Johor	30 May 2016	9	24	1	34
Melaka	Melaka & Negeri Sembilan	31 May 2016	22	32	2	56
Pahang	Pahang	1 June 2016	5	29	2	36
Kuala Lumpur	Kuala Lumpur	2 June 2016	28	39	2	69
Selangor	Selangor	3 June 2016	22	66	4	92
<b>Total Respondents</b>			<b>144</b>	<b>284</b>	<b>16</b>	<b>444</b>

**Survey Instrument.** Questionnaire was used to tap the personal and socio-demographic profiles of respondents such as gender, age, educational level, type of employment and union membership. It also includes questions and items gauging the general attitudes towards trade unions and its effectiveness as well as to gather respondents' perceptions of TPPA implementation in Malaysia in terms of understanding and readiness. In order to gather richer and better insights and justifications to the responses, open ended questions were also asked. Each questionnaire took approximately 45 to 60 minutes to be completed through the self-administered method. The questionnaire was prepared in both Bahasa Malaysia and English. The accuracy and consistency of the language and terms used in both versions were validated through the process of stakeholders' engagement and pilot tests.

Trade union effectiveness focuses on the trade union's ability to deliver improved working conditions for employees. A total of 46 items adapted from Bryson (2003) and Suhaila et al. (2010) were developed to measure the trade union effectiveness. These items represent two main dimensions: union's organisation effectiveness and union's delivery effectiveness. Trade unions' organisation effectiveness is defined and operationalised as *'factors such as union's representatives to individual member's problems and union's ability to communicate and share information that give a union the capacity to represent its members'* (Suhaila et al., 2010, p.91). A 5-point Likert scale was used, ranging from 1 = strongly disagree to 5 = strongly agree. Trade unions effectiveness was measured by their members' perception of their ability, for example, to negotiate for better pay, benefits and work environment and protecting against unfair treatment from employer. A 5-point Likert-type scale, ranging from 1 = fail to 5 = excellent, was used.

Items measuring trade union members' understanding and perceptions of the TPPA implementation in Malaysia were also included in the questionnaire. A total of 24 questions were developed to solicit trade union members' responses towards issues such as their understanding and readiness on TPPA. Sample items to tap their understanding of the TPPA include *'The understanding of the implementation of TPPA in general'*; *'The proposed changes to the trade union law with the implementation of TPPA'*, and *'the proposed changes on laws and regulations regarding the procedures for industrial actions (e.g. strike, pickets)'*. Meanwhile, the items such as, *'To accept changes in organisational culture within union if it is to be led by foreign workers'* and *'To accept that an employee can be a member of more than one*



trade union' were used to measure trade union members' readiness. In this section, these responses were also anchored to a 5-point Likert scale ranging from 1 = Strongly Disagree to 5 = Strongly Agree. Likewise, open-ended questions were also included in this section to offer respondents the opportunity to justify their answers.

The questions on trade unions effectiveness were proven reliable with Cronbach's Alphas ranging from 0.852 to 0.933 for all dimensions of trade union effectiveness (Suhaila et al., 2010). Based on the samples of the pilot test, the Cronbach's Alphas for all items including the TPPA questions is 0.86 which is well above the acceptable range of items reliability. Pilot tests were conducted with union members and leaders in Kuching, Kota Samarahan, Kota Kinabalu and Selangor. The aim of this pilot study was to ascertain and confirm the suitability and reliability of the contents of the questionnaire. The piloting process focused on time spent on the questionnaire, ease of answering questions, simplicity, prompts eliciting ideas and pattern of information received. Based on the responses received during the pilot tests, flaws or issues were rectified and improvements and changes were done accordingly.

**Focus Group Discussions.** For obtaining employers' perspectives on trade union issues, the focus group discussions were performed as the third mode of data collection of this study to solicit their responses on the effectiveness of the trade unions in Malaysia. A question protocol was prepared prior to the actual focus group discussion. The questions focused on three main issues namely, employee unions' effectiveness, the understanding of TPPA and readiness for it. Among the questions incorporated into the focus-group discussions were, "What Do You Think of The Current Scenario of Trade Unionism in Malaysia?" and "What Is Your General Understanding about TPPA". Prior to the actual focus group discussion sessions, the questions were validated by subject-matter experts (i.e., the Department of Trade Union Affairs officers) to confirm their relevance and appropriateness. The issues and problems identified from this pilot study were addressed accordingly.

A total number of 139 employers attended the focus groups in six locations as shown in Table 1.4. Because of the big number of employers attending the focus group, in some places they were split into two focus groups. The majority, i.e. 48 focus group participants, were from the in-house union followed by 11 participants from the national and another 11 employers belonged to both unions. There were also 49 employers with no employees union attending the focus group the majority of which were from Kedah and Sarawak.

**Table 1. 4 Focus Group Locations and Participants.**

Region	Date	Locations	Number of employers participating in the focus group discussions based on status of their employees' union				
			National	In-House	Both (In-House and National)*	Non-Unionised	Total
Selangor	18 May 2016	JTK Selangor	1	23	2	-	26
Kuala Lumpur	19 May 2016	PTK KL	-	7	3	4	14
Sarawak	23 May 2016	PTK Kuching	-	5	2	11	18
Sabah	24 May 2016	Tabung Haji Hotel	-	7	4	-	11
Pulau Pinang & Kedah	27 May 2016	PTK Sungai Petani	1	8	-	28	37
Johor	31 May 2016	JPP Johor	9	18	-	6	33
Total			11	68	11	49	139

\*These focus group participants represent an organisation that has both the national and in-house trade unions.

***In-Depth Interviews.*** In order to compliment the focus groups, two in-depth interviews were conducted. These interviews were conducted with a representative from the Malaysian Employers Federation (MEF) and the National Union of Plantation Workers (NUPW) respectively. The interviews were conducted to tap their views on the trade union movement in Malaysia as well as the issues relating to proposed changes under the Labour Chapter and LCP resulting from the TPPA implementation. A question protocol was also used to manage and ensure that the questions asked were in line with the research area and scope.

## **Data Analyses**

***Data Analysis for Survey.*** The data collected through the survey was processed using the latest version of the Statistical Package for Social Sciences (SPSS) and analysed by descriptive analysis, factor analysis, multiple regression and several inferential statistical tests deemed appropriate in line with the objectives of the study. Prior to running any other statistical procedures, the normality of the data collected was performed. This procedure is required before deciding on the usage of any parametric or non-parametric statistical tests.

The descriptive analysis summarised the responses from the trade union members with regard to trade unions' effectiveness. Factor analysis was employed to identify and confirm items that can be conceptualised under any particular dimensions. A cut-off value of factor loading 0.3 was used to filter the items (Allen & Bennet, 2012). In order to make comparisons, t-test as well as cross-tabulations were used. In addition, hierarchical regression analysis was conducted to compare the importance of factors identified in influencing members' perceptions of effectiveness of trade unions. Similar procedures were used on items measuring knowledge and readiness of trade union members with the TPPA.

***Data Analysis for Qualitative Information.*** Data collected through in-depth interviews and the focus-group discussions were transcribed and analysed. Guided by the objectives of the study, all emerging themes were identified and reported. This analysis was used for identifying, analysing, and reporting patterns (themes) within the qualitative data. The thematic analysis involved four stages namely reviewing the relevant literature for themes; the coding of text "line-by-line"; the development of "descriptive themes"; and the generation of "analytical themes".

## **Limitation and suggestions for future research**

This study has attempted to explore and analyse the trade unions movement in Malaysia particularly on determining factors that could influence their effectiveness. It also explores the level of understanding and readiness of trade unions members on the incoming TPPA. The study used a comprehensive research approaches incorporating both quantitative and qualitative method of data collection encompassing various stakeholders including the trade unions members, employers and representatives from the related associations and government agencies. In the process of conducting the research however, several limitations were uncovered that are useful for future research to consider.

The key limitation of this study was to gather information from the trade unions members who are not only scattered all over the country but also very difficult to approach. Members of the trade union are not possible to be surveyed at their workplaces particularly during working hours. In addition, details of the trade unions members are not publically available. However, this limitation was able to be minimised with the collaboration of the team members from JHEKS and ILMIA.



The second limitation of the research was in identifying the employers' representative who are in a position to provide information and feedback about trade unionism in Malaysia. As the number of trade unions in Malaysia is small, particularly in the less developed regions, it was difficult in identifying and selecting the focus group participants. However, this was resolved with the coordination of JTK, JPP and ILMIA in all the six regions where the focus group were conducted.

The third limitation faced by the researchers was the lack of information and past research on trade unionism in Malaysia. Much of the research on trade unionism were found abroad while in Malaysia most of the research were unpublished and narrowed in scope. Hence, in developing the instruments of the study, the researchers had adapted those used abroad and had tested them with the local respondents prior to the actual research.

## **Summary**

This chapter introduces the concept of trade unions, their roles and functions as well as the rationale of the study. It reports the method used in conducting the research and highlights some of the limitation of the research as reference for future researchers.

The key highlight of this chapter is determining and justifying the research method, scope and how they were implemented. It discusses the various definitions, concepts, history as well as facts and figures on trade unionism in Malaysia. Specifically, this study used both quantitative and qualitative approaches involving various stakeholders including trade unions members, employers' representative and related government agencies. Generally, this study had conducted a survey among 444 members in all the 14 states of Malaysia and focus group discussions in six major locations where trade unions are densely located.

# CHAPTER TWO

## OVERVIEW OF TRADE UNIONISM

*Dzulzalani Eden, Abdul Jabbar Abdullah, Mohd. Azizul Hafiz Jamian & Christopher Perumal*

### Introduction

The primary objective of this study was to analyse the current state of the trade union movement in Malaysia. This chapter by presenting and discussing the results from the extensive survey, a series of focus groups and comprehensive review of secondary data provides such an analysis. The analysis starts by examining secondary data to uncover the trends in trade union density and how this relates to major economic indicators and the role of trade unions in collective agreements. Throughout, the local situation is compared to overseas and the global context in which all operate.

The second part of this chapter focuses on the perception of trade unions from both the members' standpoint and the employers. The survey findings provide insight into the views of unionists and the analysis of the focus group discussions reveals the opinions of the employers. The results from the members are presented in a manner that enables any relationship between how they perceived and the type of trade union; position within trade union; occupation; sector; age; education level and geographical location, to be discerned.

### Diminishing Trend of Trade Union Density

Despite the integral role undertaken by the trade union in the industrial relations systems, the percentage of employees who are members (i.e. the density), in Malaysia and abroad is one of decline.

This diminishing trade union density has been attributed partially due to the changing employment trends and the rise of individualism (Salamon, 2000). Aminuddin (2013) however, argued that different countries experienced varying factors that caused the demise of trade unionism and so no single formula can explain the diminishing trend. Hence, the downward trend in trade union density is caused by a combination of several factors making it a complex and difficult phenomena to be comprehended. For example, in Australia it had been associated with structural factors including economic factors and changes in the labour market (Peetz, 1990). In Malaysia, however, some have associated it with increased management resistance and reduced workers' interest in collectivism as well as rigid legislation (Ramasamy, 2008).

The purported management resistance has been tested in the Industrial Court by some trade unions who have claimed that an anti-union strategy was evident by management who discouraged their employees from forming a union. This is apparent in the Industrial Court decision between *Kesatuan Sekerja Industri Elektronik Wilayah Barat Semenanjung Malaysia vs. Renesas Semiconductor KI Sdn Bhd* (2016), in which the employer was found to have embarked on a planned course of action to stop one of its employees from testifying for the union in the process of getting recognition. The learned Chairman of the Industrial Court held that the employer is legally and morally bound to respect the employees' right to be involved in trade unionism and in this particular case, the employer was found to have breached this right (Box 2A).



#### Box 2A: Breach of Trade Union Rights

*[58] The court has made its ruling in accordance with equity, good conscience and having regard to the substantial merits of the case. The court notes that employers are lawfully bound to respect a worker's right to engage in unionism and to participate in the lawful activities of a union. The IR Act further makes the employer morally and ethically constrained to do so. Article 8 of the Code of Conduct for Industrial Harmony dated 9 February 1975 unequivocally declares, inter alia, that employers agree not to support or encourage any unfair labour practises such as interfering with the affairs of a Trade Union and the right of workers to organise, discriminate, restrain, or coerce against any worker because of legitimate Trade Union activities and abuse authority in any form.*

*[59] The protection of the right of the employees to unionise for their common good is stated in s. 4(1) of the IR Act 1967. On the evidence, facts and its pleaded case, the court finds that the company has violated the sections as pleaded by the union save for s.4(2) which the union had withdrawn during its submissions in court.*

While management resistance could be one of the contributing factors to union demise in Malaysia, elsewhere changes in the industrial structure, particularly the shift towards the service sector, has also been cited as a cause for this phenomena. For instance, it was found in Japan that the drastic fall in trade union density since the 1990s was caused by the change in the employment pattern (Hiromasa & Katsuyuki, 2011). In many countries, the shift to the services sector has made it very difficult for employees to unionize due to the highly specialised and decentralization nature of the work environment, unlike the manufacturing sector where the unions have had a stronghold. Aminuddin, however, has noted that two of the most prominent factors that have been associated with the fall of unionism are the growth of human resource management and changes in the employment structure, such as the hiring of part time and temporary workers. As many countries move in tandem with the phase of globalisation in which service sector and knowledge workers become the driving force of human capital, the role of trade union has become somewhat uncertain, as witnessed in many developed nations.

The average trade union density for many developed countries, including the members of the Organisation for Economic Cooperation and Development (OECD), showed a marked decline in membership between 1996 and 2014. Countries such as Australia and the United Kingdom had experienced a drop in trade union density by almost half while in Denmark trade union density dropped by 24.6 percent from 1996. This phenomenon has also been occurring in other developed countries despite their long history of strong union membership (Table 2.1).

However, trade union density in Malaysia has always been much lower than the average rate in developed countries even during the early 1990s when the labour market was still very highly concentrated in the manufacturing sector. In 1996 the trade union density rate was 12 percent and dropped to 9.4 percent in 2013. By comparing this rate with many of the developed nations, Malaysia is considerably lower, the average trade union density across OECD countries being 17 percent in 2013. Malaysia's rate is also considered low when compared to countries with similar income, i.e. middle-income economies such as Brazil and Mexico, their trade union density rates being 16.6 percent and 13.6 percent respectively in 2013. Meanwhile in 2012, Singapore's rate was more than double that of Malaysia's, (19.4 percent compared to 9.3 percent), and had increased from its 1996 rate of 17.1 percent whereas Malaysia's had declined.



Generally one of the measures to determine the strength of the trade union movement in any country is through its density and degree of involvement in social protection and other social benefits. In countries with a long history of trade union density, particularly in the Nordic countries of Sweden and Denmark, the involvement of unions in employees' social protection such as unemployment insurance (commonly known as the Ghent system) and other social benefits has contributed to this strength. In these countries joining a union could provide an advantage to getting support during periods of unemployment (Clasen & Viebrock, 2008).

**Table 2.1: Trade Union Density in Selected Countries**

Country	Trade Union Density (%)												
	1996	1998	2000	2002	2004	2006	2008	2009	2010	2011	2012	2013	2014
Sweden	82.7	81.3	79.1	78	78.1	75.1	68.3	68.4	68.2	67.5	67.5	67.7	67.3
Denmark	91.4	88.7	73.9	71.6	70.4	68.4	66.3	67.7	67	66.4	67.2	66.8	n.a
Australia	31.1	27.8	25.7	23.2	22.3	20.2	18.6	19.3	18.4	18.5	18.2	17.0	15.5
Iceland	87.2	88.1	89.4	92.5	99.1	91.5	79.3	83.4	84.4	83.6	82.6	80.6	n.a
Japan	23.4	22.5	21.5	20.3	19.1	18.3	18.2	18.5	18.4	19.0	18.0	17.8	17.6
United Kingdom	33.8	32.0	30.2	29.3	28.9	28.1	27.3	27.3	26.6	25.8	26	25.8	25.1
United States	14.5	13.9	12.8	12.6	12.0	11.5	11.9	11.8	11.4	11.3	10.8	10.8	10.7
Korea, Republic of	12.2	12.1	11.4	10.8	10.3	10	10.3	10	9.7	9.9	10.1	n.a	n.a
OECD countries Average	n.a	n.a	20.4	19.7	19.2	18.3	18.0	18.1	17.7	17.6	17.2	17.0	16.7
Singapore	17.1	16.9	16.1	19.3	20.1	18.6	17.5	17.6	18.0	18.9	19.4	19.0	19.4
Malaysia	12.0	11.7	10.7	11.0	10.5	10.5	10.1	9.9	9.1	8.5	9.3	9.4	9.2
Philippines	27.6	27.4	27.2	10.0	9.5	11.7	10.9	10.6	8.7	8.7	8.5	8.5	n.a
Indonesia <sup>2</sup>	n.a	n.a	n.a	n.a	n.a	n.a	8.7	8.5	n.a	n.a	n.a	n.a	n.a
			(36.4)	(27.8)	(9.2)	(9.2)							
Brazil	28.5	27.6	n.a	28.2	29.4	30.3	22.2	19.1	n.a	17.8	17.5	16.6	n.a
Mexico	n.a	n.a	15.6	15.9	17.5	16.3	15.7	15.3	14.4	14.5	13.6	13.6	n.a
South Africa	n.a	n.a	39.1	45.7	33.7	29.9	28.5	29.7	29.7	29	29.6	n.a	n.a

Source: OECD, (2016); Trade Union Density Rate, ILO (2016), Ministry of Manpower Singapore, 2016.

<sup>1</sup>\*Calculated by author ( $930,512/10167.8 \times 100$ )

Note: This trade union density rate conveys the number of union members who are employees as a percentage of the total number of employees. For the purpose of this indicator in particular, trade union membership excludes union members who are not in paid employment (self-employed, unemployed, retired, etc.).

<sup>2</sup>Data for Indonesia is only available for the year 2001, 2003, 2005, 2007, 2008 and 2009.

## Trade Union Density by Countries

The ILO tracks annually the trade union density across countries. They define the trade union density rate as the number of union members who are employees as a percentage of the total number of employees excluding members who are not in paid employment (self-employed, unemployed, retired, etc.). Overall, most countries have registered low union density. Figure 2.1 shows the list of 69 countries according to trade union density clustered into five groups based on data from 2012 until 2014. More than half (39 countries), registered low trade union density, (less than 20 percent), while 21 countries had a moderate trade union density, (between 21-40 percent). Four countries had trade union density between 41-60 percent, while only three countries registered high trade union density, (between 61 to 80 percent). Meanwhile, Iceland is the only country that registered more than 80 percent trade union density.

**Figure 2.1 Countries Clustered by Percentage of Trade Union Density, 2012-2014**

41-60%		61-80%		>80%
Belgium (H)	Malta (H)	Denmark (H)	Sweden (H)	Iceland (H)
Cyprus (H)	Norway (H)	Finland (H)		
21-40%				
Albania (M)	Canada (H)	Ireland (H)	Moldova (M)	Slovenia (H)
Armenia (M)	Croatia (H)	Israel (H)	Montenegro (M)	South Africa (M)
Austria (H)	Greece (H)	Italy (H)	Panama (M)	United Kingdom (H)
Bermuda (H)	Hong Kong (H)	Luxembourg (H)	Russia (M)	Uruguay (H)
Bosnia (M)				
0-20%				
Afghanistan (L)	Czech Rep. (H)	Japan (H)	Netherlands (H)	Singapore (H)
Australia (H)	Dominican Rep. (M)	Korea Rep. (H)	New Zealand (H)	Slovakia (H)
Belize (M)	El-Salvador (M)	Latvia (H)	Paraguay (M)	Spain (H)
Brazil (M)	Estonia (H)	Lithuania (H)	Peru (M)	Switzerland (H)
Bulgaria (M)	France (H)	Malawi (L)	Philippines (M)	Kazakhstan (M)
Chile (H)	Germany (H)	Malaysia (M)	Poland (H)	Trinidad and Tobago
Colombia (M)	Guatemala	Mauritius (M)	Portugal (H)	Turkey (M)
Costa Rica (M)	Hungary (H)	Mexico (M)	Romania (M)	United States (H)

Source: ILO, 2016

<sup>3</sup> L=Low Income ; M= Middle Income; H-High Income



## Trade Union Density and Countries by Income Group

The World Bank (2016) classifies a country as low income (L) if the Gross National Income (GNI) per capita is between USD1,026 and USD4,035 as middle income (M) if the GNI per capita falls in between USD4,036-USD12,475 and as high income (H) if GNI per capita is more than USD12,475 annually. As shown in Table 2.2 trade union density of countries across these three income groupings show a slight variation.

Both countries in the low income group registered trade union density of less than 20 percent. For the middle income economies group, the majority of them, 62.5 percent (15 countries) have low trade union density, i.e. not more than 20 percent, while 33.3 percent (8 countries) recorded rates between 21-40 percent. There is only one or 4.2 percent of the middle income countries registered more than 40 percent. Trade union density in the high income group varies across countries from low to high density. Most of the countries, including the United States, recorded low trade union density. Of 41 countries in this category, 51.2 percent (22 countries) have trade union density below 20 percent; 30.2 percent (13 countries) have trade union density between 21-40 percent; 9.3 percent (4 countries) around 41-60 percent; while 7.0 percent (3 countries) recorded 61-80 percent trade union density, and only Iceland recorded very high, i.e. more than 80 percent, trade union density.

**Table 2.2: Trade Union Density and Group of Economies by Income Group**

Economies/Densities in Percentage	Trade Union Density/Number of Countries					Total
	0-20%	21-40%	41-60%	61-80%	81-100%	
Low Income	100% (2)	0% (0)	0% (0)	0% (0)	0% (0)	100.0% (2)
Middle Income	62.5%(15)	33.3%(8)	4.2%(1)	0%(0)	.0%(0)	100.0%(24)
High Income	51.2%(22)	30.2%(13)	9.3%(4)	7.0%(3)	2.3%(1)	100.0%(43)
<b>Total</b>	<b>56.5%(39)</b>	<b>30.4%(21)</b>	<b>7.2%(5)</b>	<b>4.3%(3)</b>	<b>1.4%(1)</b>	<b>100.0%(69)</b>

Source: Trade Union Density Rate, ILO 2016

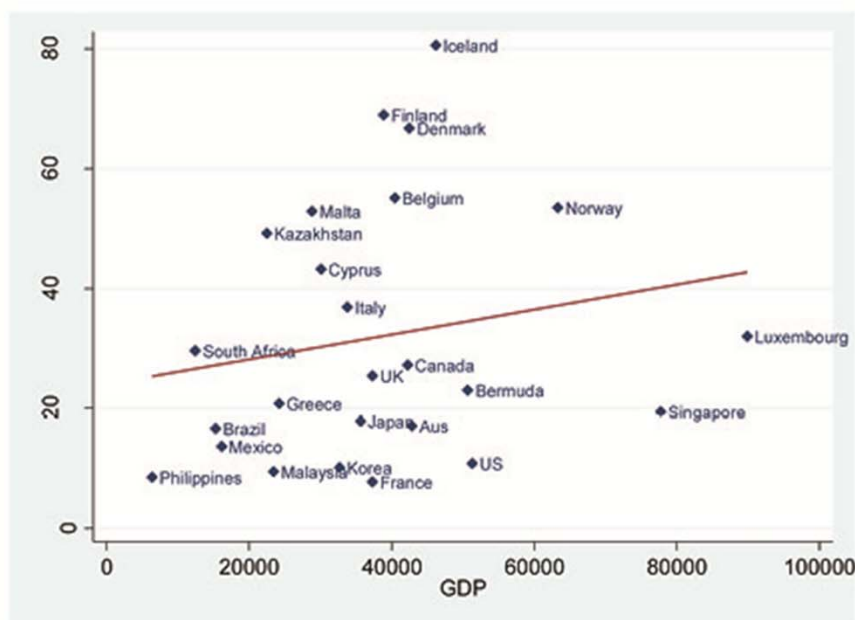
## Trade Union Density and Economic Development

This section discusses the relationship between trade union density and economic development indicators such as Gross Domestic Product (GDP) per capita and economic growth. GDP per capita is an indicator of economic output per person. Therefore, it is one of the common measures to compare standard of living between countries. GDP per capita can be used as a measure of the average income earned per person. According to prosperity theory, an increase in GDP allows the unions to demand for higher wages and benefits. In general a growing economy tends to provide greater job opportunity and job security in the long run (Sharma, 1989; Said et.al, 2002). Meanwhile, economic growth indicates economic performance of a country over time.

Figure 2.2 depicts the relationship between trade union density and GDP per capita of selected countries using cross sectional data in 2013. The regression result shows that trade union density was associated positively with GDP per capita suggesting that in general, the higher the GDP per capita, the higher the trade union density which is consistent with the prosperity theory. High GDP per capita reflects the overall development of countries. Developed countries with GDP per capita of more than USD40,000

particularly in the Scandinavian region such as Iceland, Finland, Sweden and Denmark have trade union density above 70 percent. However, there are countries with high GDP per capita but relatively lower trade union density such as the United States, Japan and Singapore but on average their rates are still above that of less developed nations. Meanwhile, the countries with lower GDP per capita are likely to record lower trade union density. Examples of countries under this category are the Philippines, Brazil and Mexico with trade union density below 20 percent. Malaysia falls below Brazil and Mexico but above the Philippines.

**Figure 2.2 Trade Union Density and GDP per capita 2013 (in Nominal terms)**



Source: Trade Union Density Rate, ILO (2016) and World Development Indicator, World Bank (2016)

Figure 2.3 depicts time series data from 2000 to 2013 for trade union density and GDP per capita. The trend indicates a negative relationship between trade union density and GDP per capita<sup>7</sup>. Although GDP per capita indicated an increasing trend from 2000 to 2013, the trade union density was declining except for 2011 to 2013 in which GDP increased followed by a slight increase in trade union density.

<sup>4</sup> Calculated using Atlas method. Malaysia's GNI per capita (current price) was USD10,750 in 2015. USD1.00 = RM3.99 as at July 2016.

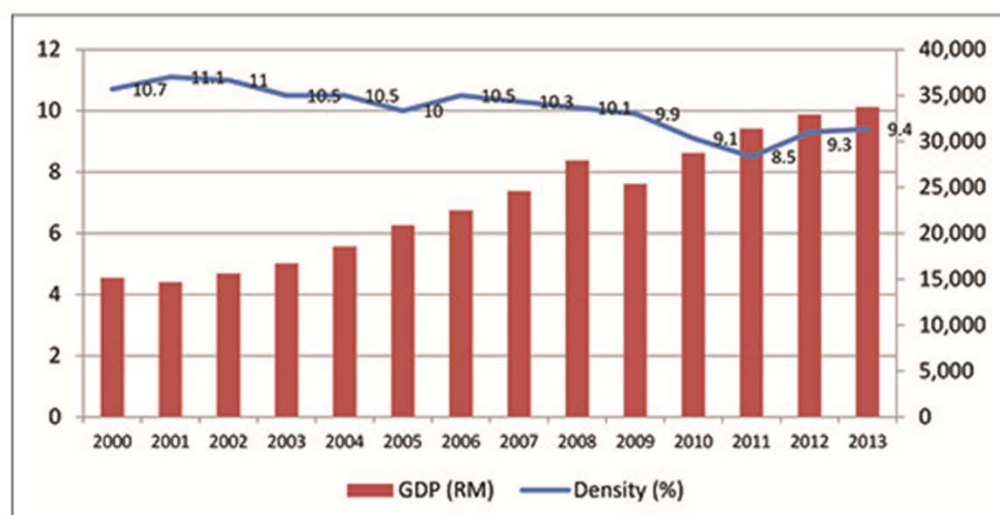
Some data are incomplete or missing, thus, interpolation is necessary to fill in the gap. Missing data were interpolated using simple average and moving average techniques. GDP per capita was used to make sure it comparable with previous studies. Previous studies used GDP per capita not the GNI per capita.

<sup>6</sup> The equation  $Y = 13.8 + 0.035X$   $R^2 = 0.13$  estimates the line of the graph which indicates a positive relationship between trade union density (Y) and GDP per capita (X). The GDP per capita is at nominal value.

<sup>7</sup> Time series analysis and regression could not be conducted for Malaysia due to small number of observations.



**Figure 2.3 Trade Union Density and GDP per capita, Malaysia (2000-2013)**

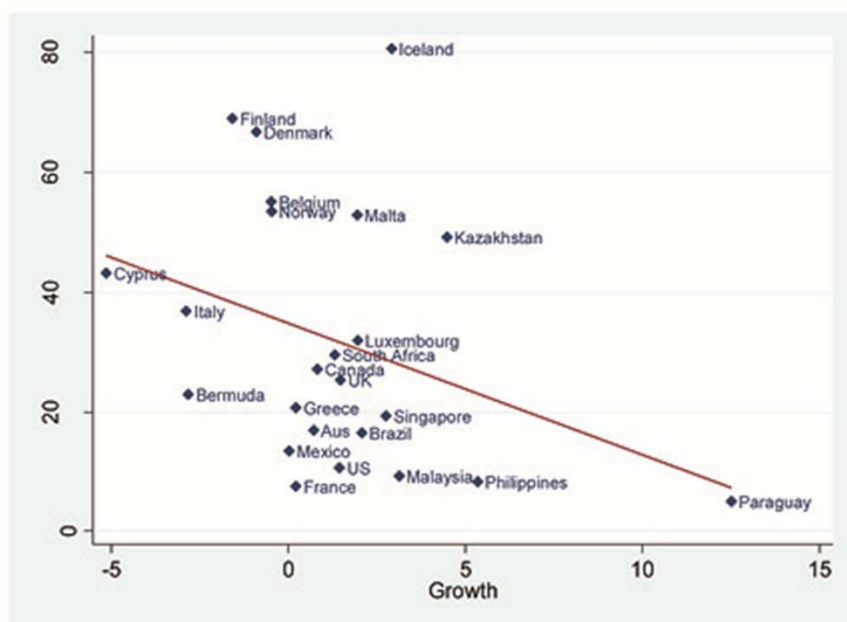


Source: Developed from Department of Trade Union Affair and Department of Industrial Relation, Malaysia, Economic Planning Unit 2016.

The GDP of a country fluctuates over time and to maintain a stable economic performance is a big challenge for any country. Therefore, it is interesting to investigate the relationship between economic performance and trade union density. Given that economic performance is measured by economic growth over time, how would this affect trade union density in the long run? Figure 2.4 presents the relationship between trade union density and economic growth in selected countries. The regression result<sup>6</sup> and the graph clearly illustrate a negative relationship between trade union density and economic growth. The results show that a country with high economic performance did not necessarily register higher trade union density. The Philippines and Paraguay provide the best example of this phenomena. Both countries had achieved by 2013 high economic growth, 12.5 percent and 5.3 percent respectively, but had low trade union density of less than 10 percent. In contrast, some countries with lower and negative economic growth, registered a high trade union density. Trade union density in the Scandinavian countries maintained a high level, up to 80 percent, although the economic growth of these countries was very low and some negative. A decline in economic performance, for whatever reason, did not therefore appear to adversely affect trade union membership.

<sup>6</sup>The equation  $Y = 25.6 - 1.47X$   $R^2 = 0.05$  estimates the line of the graph which indicates a negative relationship between trade union density (Y) and Economic Growth (X). Economic Growth is calculated using GDP per capita in the current year minus GDP per capita in the previous year over GDP per capita previous year  $(\text{GDP Year} - \text{GDP Year 0} / \text{GDP Year 0}) \times 100$ . The GDP per capita is at nominal value.

**Figure 2.4 Trade Union Density and Economic Growth, Cross Countries**



Source: Trade Union Density Rate, ILO (2016) and World Development Indicator, World Bank (2016)

Meanwhile, Figure 2.5 demonstrates the relationship between trade union density and economic growth in Malaysia<sup>9</sup>. In general, economic growth fluctuates dramatically from 2000 to 2013, but trade union density was declining. The figure suggests no clear relationship between these two variables. In 2001, when the economy registered negative economic growth, there was a slight increase in trade union density. Similarly, during slow economic growth in 2012 to 2013, trade union density was slightly increasing. However, during the period 2006 to 2008 which recorded an increasing economic growth, trade union density was decreasing. This is consistent with the findings of previous studies which found no conclusive evidence of the relationship between trade union density and growth in Malaysia. Sharma (1989) found that economic growth effect is insignificant while another study by Saad et al. (2002) showed that trade union density is positively associated with economic growth. This suggests that economic growth is not the main variable influencing trade union density. Perhaps other factors such as legislation, government policies and the economic structure have largely influenced the trade union density.

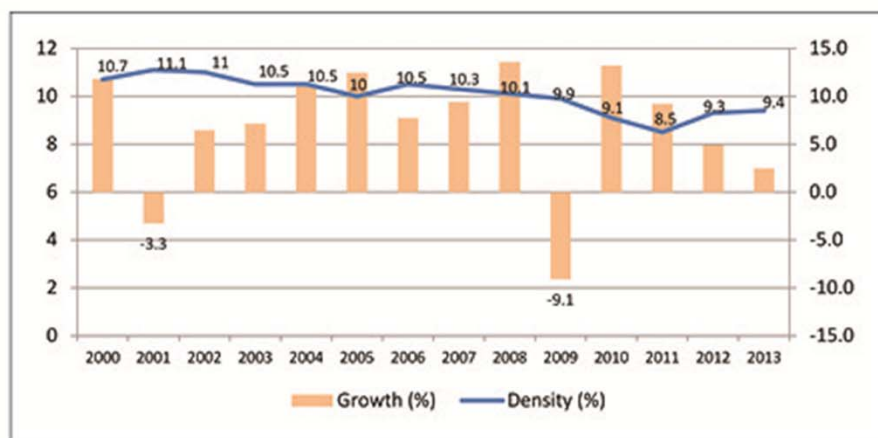
Changes in legislation and policies with respect to trade unionism in Malaysia since independence to regulate the formation of trade union has been found to be among the factors that influence the demise of trade union density (see Aminuddin, 2013; Anantaraman, 1997; Jomo and Todd, 1994). These changes were made to deter the interference of political elements into the trade unions movement as evident during the pre-independent era when labour movement was greatly influenced by members of the communist party.

The transformation in the Malaysian economy since independence in which agricultural activities have become less dominant as a result of the increase contributions of the manufacturing and service sectors have changed the employment structure, thus affected the propensity of employees to join trade unions. As evidenced from research in other countries, the nature of employment in the services sector was not

<sup>9</sup>Calculated based on nominal value.

conducive for trade union movement, unlike the agriculture and labour-intensive manufacturing sectors (Bist, 2010; The Economist Sept 28, 2015). In addition, the shift towards services oriented economy requires employers to be more competitive, in managing their workforce through a more employee's centred approach. This resulted in the emphasis of good human resources practices hence, made trade unions less important.

**Figure 2.5 Trade Union Density and Economic Growth, Malaysia**



Source: Trade Union Density Rate, ILO (2016); Economic Planning Unit, 2016.

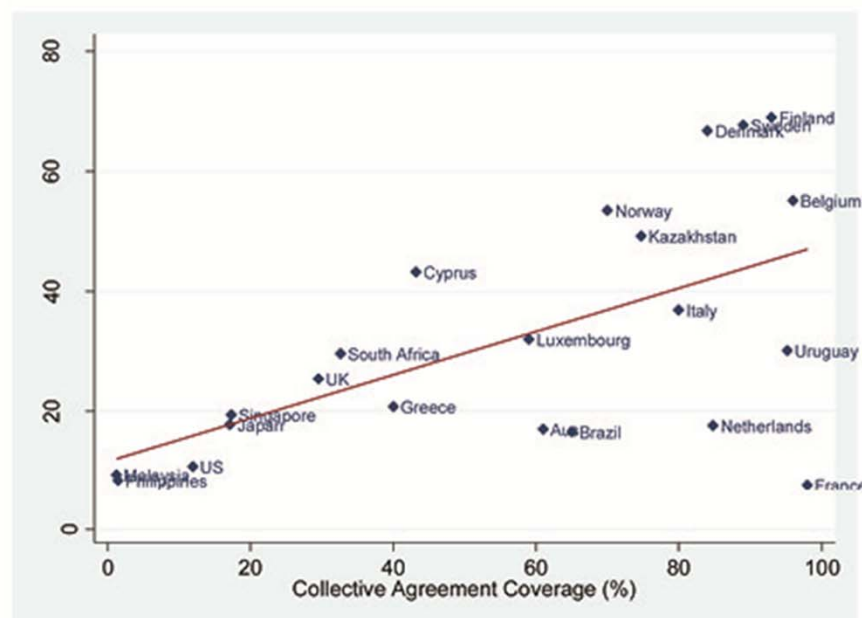
## Trade Union Density and Collective Agreement

Collective agreement is the outcome of union power. It reflects the ability of a trade union to negotiate with their employers through their collective strength. Strong union power may attract more employees to join the union to maximise their terms and conditions of employment and other benefits. Yet there are a number of countries, such as Australia, Austria and the Netherlands, that have high collective agreement coverage, up to 80 percent, but relatively low trade union density (Blanchflower, 2006). Therefore, it is interesting to investigate the relationship between collective bargaining and trade union density.

Figure 2.6 demonstrates the relationship between trade union density and collective agreement coverage. The regression result<sup>10</sup> and the graph clearly show a positive relationship between trade union density and collective agreement coverage. It seems that an increase in collective agreement coverage indicated a hike in trade union density. The countries with high collective agreement coverage (e.g. Finland, Sweden and Denmark) tend to have high trade union density with the exception of a few developed countries such as France and the Netherlands. Collective agreement coverage was very high in France and Netherlands even though the trade union density was relatively lower than other developed countries.



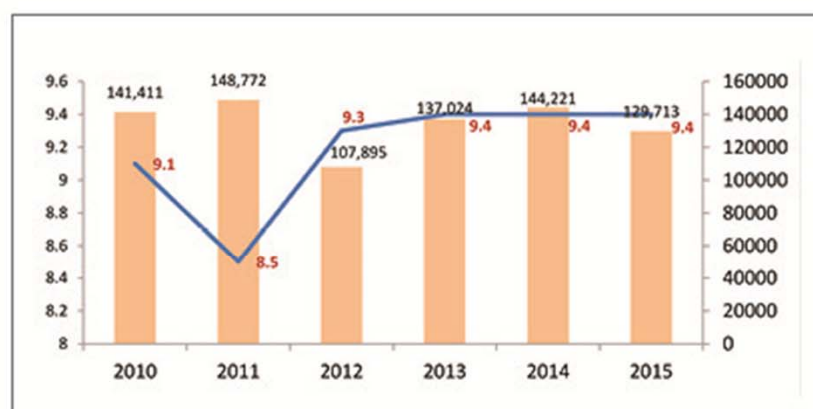
**Figure 2.6 Trade Union Density and Collective Agreement Coverage, Across Countries**



Source: Trade Union Density Rate, ILO (2016) and World Development Indicator, World Bank (2016)

Figure 2.7 illustrates the evidence in Malaysia, which also demonstrates an unclear pattern. In 2012-2013, the trade union density seems to increase in the same direction with collective agreement coverage. However, trade union density is constant from 2013 to 2015 even though the collective agreement coverage fluctuates in the same period.

**Figure 2.7 Trade Union Density and Number of Employees Covered under Collective Agreement, Malaysia**



Source: Department of Trade Union Affair and Department of Industrial Relation, Malaysia; Trade Union Density Rate, ILO (2016)

<sup>10</sup>The equation  $Y=12.3+0.33X$   $R^2=0.29$  estimates the line of the graph which indicates a positive relationship between trade union density (Y) and Collective Agreement Coverage (X).

In Malaysia, various legislation regulates the collective bargaining process and restricts the role of trade unions in collective bargaining. For example, the Industrial Relations Act 1967 prohibits the inclusion of items deemed to be managerial prerogative - hiring, firing, redundancy, promotion, transfer and the allocation of duties - in a union's proposal for a collective agreement. In addition, the Promotion of Investments Act 1986 had in the past prohibited workers in pioneer industries from negotiating working conditions more favourable than the minimum standards embodied in the Employment Act 1955. This had affected the employees' rights to form trade unions in companies with pioneer status (Peetz and Todd, 2001). Although this policy has been changed, it has left a significant impact on trade union movement in the country.

## Trade Unions and the Malaysian Employment Structure

As discussed earlier trade union membership is also influenced by the structure of the labour force, including the type of job, industry and socioeconomic demography. Historically, around the world, union membership is high in manufacturing sectors while the services sector has shown low union memberships (Salamon, 2010). In the context of Malaysia, however data has shown that trade unions occupy a stronghold in the manufacturing and service industries the percentage of membership being more than 60 percent (Department of Trade Union Affairs, 2016).

As shown in Table 2.3., the services sector accounted for more than half of total employment in Malaysia followed by the manufacturing sector with of the total employment in 2014. The number of trade unions members also reflects the same composition with majority came from the services followed by the manufacturing sector (Table 2.3).

**Table 2.3: Malaysian Employment by Sector and Trade Union Membership 2011 -2015 (Percentage)**

	2011		2012		2013		2014		2015	
	% of GDP	% TU	% of GDP	% TU	% of GDP	% TU	% of GDP	% TU	% of GDP	% TU
Agriculture	7.6	9.4	7.6	8.3	7.2	8.1	9.2	8.1	8.9	8.1
Mining and Quarrying	8.9	0.1	8.4	0.1	8.4	0.1	9.0	0.1	8.9	0.0
Manufacturing	25.1	11.9	24.9	11.0	24.8	10.4	23.0	10.5	23.0	10.5
Construction	3.2	0.2	3.5	0.3	3.7	0.3	4.3	0.3	4.4	0.3
Services	54.1	78.4	54.6	80.3	54.6	81.1	53.4	81.1	53.5	81.1

Source: Economic Planning Unit, Department of Trade Unions 2016

The services sector is expected to continue to be the main source of growth, output and employment in Malaysia. In 2014 it provided 8 million jobs and accounted for 55 percent of GDP. It is estimated that by 2020 this sector will contribute 58 percent of Malaysia's GDP and hence, will transform the country into a knowledge based economy with high paying jobs (Services Sector Blueprint, Prime Minister Department March 2015). Yet, the ramification of this trend in the employment structure could have an impact on trade unions in the country as has been witnessed in the United Kingdom in which millions of manufacturing job disappeared in the 1970s (Schifferes, 2004).



Nonetheless, Bist (2010) highlighted that although trade unions have found roots in the services sector, particularly the information technology (IT) sector, it was very difficult for them to operate given the nature of the job, employers' resistance and a highly internationalized feature of the industry. A survey conducted on 800 employees in the IT companies in India, however, found that 67 percent of them were in favour of organised trade unions. They indicated that trade unions could address concerns related to their jobs and work environment such as long working hours, high stress level, denial of annual leave and wage differential across companies.

According to Wills (2005), the services sector particularly the hotel industry has been facing very low rates of unionisation in the United Kingdom due to the nature of employment such as fixed term contract, outsourcing, part time and casual employment as well as high employees turnover rate. An interview conducted by Wills (2005) with the UK hotel industry trade union activists clearly indicates the difficulty of trade union movement in the services industry (Box 2B).

#### **Box 2B: Trade Union Movement and Services Sector**

*Beyond the centres of skill in management, engineering and the kitchen, the hotels have the "CV tourists" who have come to London for 6 months or so to learn the language and get the Dorchester or the Savoy or somewhere like that on their CV...then there are the "traveller tourists", the Australians, the New Zealanders, people who just want 2 or 3 months in the hotel industry. Then you get students who are at university here, they are doing a few hours a week to help pay their way in a very expensive city. Then there are those who are working part-time, it is not their main work, but they do banqueting and things. Then there are the contract workers who come in during the night. They do the dirty work and we never see them...They are all mobile and they don't really have any interest in organising'*

The nature and types of work in the manufacturing and services industries are highly demanding such as having to work long hours that does not commensurate with remuneration. It is worth mentioning that both the researches on i.e. hotel industry and ICT sector emphasise global difficulties and roles of trade unions in benefitting the society. This issue could be further aggravated due to lack of knowledge on their employment rights. A study by Omar et al. (2009) in the banking sector in Malaysia indicated that employees do not possess sound knowledge of their employment basic rights relating to employment and to unionisation.

### **Trade Union Movement: Perception by the Union's Members**

This section analyses the general view of the trade union movement among trade union members. The results were based on the responses received from the survey which was conducted in nine locations throughout the nation. In order to understand the sentiments among trade union members, they were asked to rate their perceptions based on pre-determined propositions adapted from similar research in the past. These statements are shown in Table 2.4. A five point Likert Scale between 1=Strongly Disagree to 5=Strongly Agree was used for rating purposes. Their responses were then averaged out to determine the mean score<sup>11</sup>.

These statements were rearranged into two groups of positive and negative perceptions. One of the reasons to adopt this method was to validate for consistency in the responses. Referring to Table 2.4, item 1, 3, 6, 8 & 9 are all positive statements used to analyse the general perception of the trade unions



members about the movement in Malaysia. Higher mean score would reflect their strong agreement with these statements. Meanwhile, item 2, 4, 5 & 7 are negative statements and lower scores reflect their strong disagreement with such statements, hence indicating their favourable opinion of the trade union movement in Malaysia.

**Table 2.4: Instruments Used to Gauge Perception of Members Towards Trade Union Movement**

Item No.	Statements
Positive	
1	Trade unions are a positive force in Malaysia
3	I am glad that trade unions exist.
6	I am proud of the labour movement in Malaysia.
8	Most workers can enjoy better benefits by joining unions.
9	Taking everything into consideration, I would describe my overall views towards unions as favourable.
Negative	
2	If I have a choice, I probably would not stay as a member of a trade union.
4	Trade union does not have any impact on the wellbeing of the employees.
5	I am not proud to be a trade union member.
7	Most workers can still enjoy better benefits without joining unions.

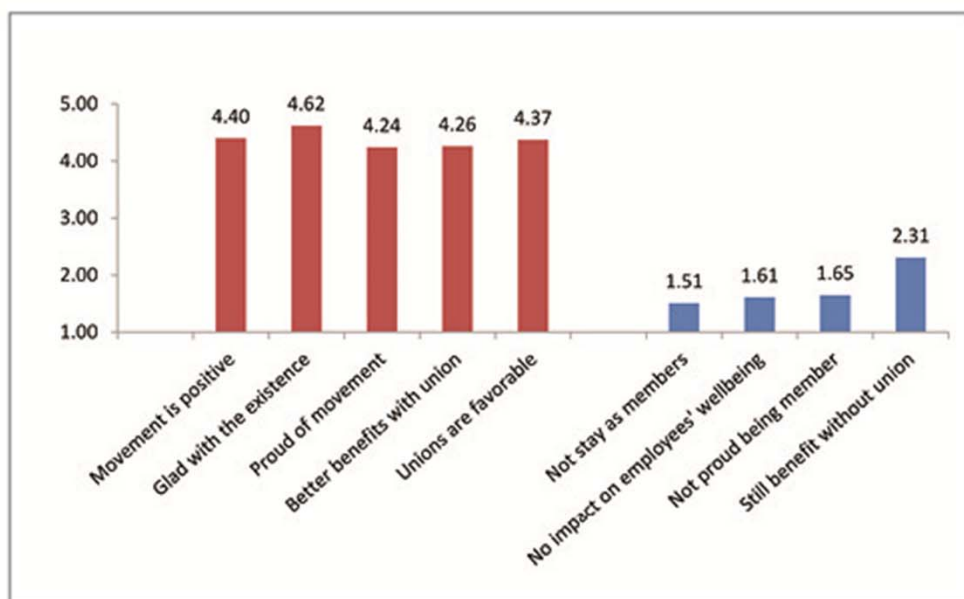
As shown in Figure 2.8, of the 444 trade union's members being surveyed, the majority had favourable views about the trade union movement in Malaysia, as shown by their very high responses, (mean scores ranging from 4.24 to 4.62 on a five-point Likert scale). A closer analysis of their responses showed that the majority believe that the movement of trade union in Malaysia is positive and they appreciate its presence in the labour market, (about 90 percent of the respondents agreed to these statements). The majority of the members were also proud of the movement and were of the view that trade unions bring better benefits to their members. Hence, the majority of the respondents were in favour of the trade union movement in Malaysia (mean score=4.37).

Consistency in their views was shown when analysing the reverse statements, i.e. the negative propositions. For instance, very few would consider rescinding their membership (mean=1.51). In addition, only a small number of them think that trade unions have no impact on the wellbeing of employees (mean=1.61). Likewise, few agreed with the statement that they were not proud being members (mean=1.65). However, when asked whether they think employees would still benefit without unions, while generally many of the trade unions members still disagreeing with this statement, the degree of disagreement is less indicating some debate within the membership on this point (Figure 2.8).

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<sup>11</sup>The average mean would be able to determine the degree of responses of the respondents covered in the study.

**Figure 2.8 General Views towards the Movement of Trade Union**



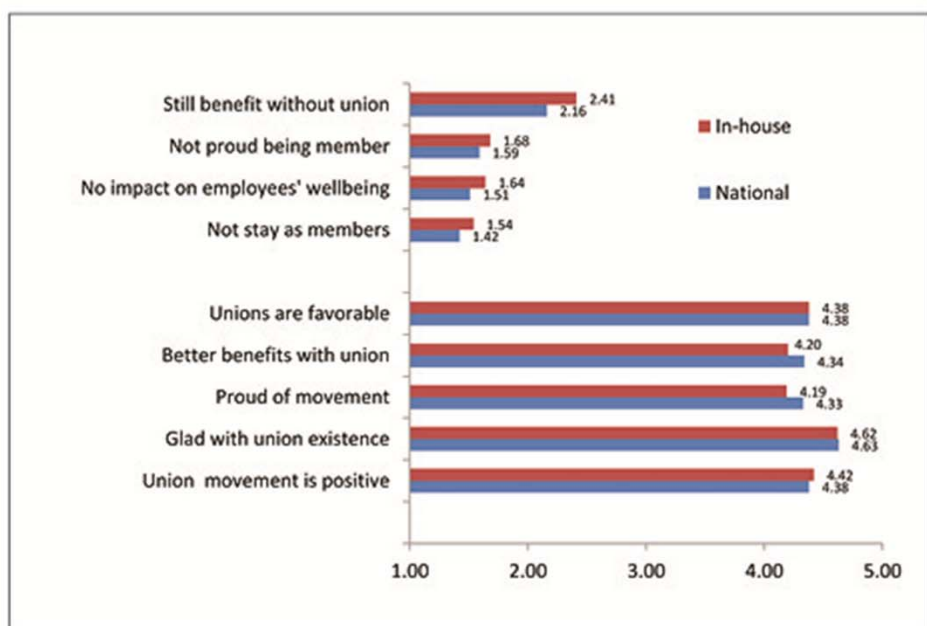
### Trade Unions Movement and Types of Union

The study also attempted to gauge whether there are different views between trade unions members from the national and in-house unions. As mentioned earlier, 66.4 percent of respondents were from the in-house unions and 33.6 percent were national union members. The results show no significant differences in the perceptions between them in this study, (Figure 2.9). Generally, both groups agreed that trade unions are a positive force in Malaysia. The majority of trade unions members, from both types of unions, appreciate the existence of trade unions in the labour force (in-house=4.62; national=4.63). Similarly, members from both types of unions were proud of the movement (in-house=4.19; national=4.33). They were also both having the same opinion that by joining a trade union better benefits are provided. Therefore, both the members of national and in-house union consider trade unions as favourable (in-house=4.38; national= 4.38).

The same pattern was observed when the reverse statements were analysed. All such statements posed to them during the study registered low mean scores. For example, they did not agree to the proposition that they would leave their unions if they had a choice (in-house=1.54; national=1.42). The members also rejected the assumption that trade unions have no impact on the wellbeing of employees. The responses between the two types of unions indicated a slight difference concerning whether they think that most workers can still enjoy better benefits without joining unions.

The conclusion from these findings is consistent with the trend taking place in many advance countries where patterns indicate a swing in favour of the establishment of in-house unions. It can be argued that in-house-unions may still be favourable despite some arguments stating that the national unions perform better. However, it has been noted in the US that in-house unions are not independent, hence the nickname 'yellow unions' indicating elements of control from employers, (Aminuddin, 2012). Despite this, there is no conclusive finding as yet that indicates which type of unions can negotiate for better benefits, and hence are likely to be more favoured by their members.

**Figure 2.9 General Views towards the Trade Union Movement: National & In-house**



### **Members versus Leaders and their Views of Trade Unions Movement**

The study also attempted to determine whether there are any differences between the views of the ordinary members compared to those who hold leadership position in the trade union. As illustrated in Table 2.5, there are no variations in opinions between them. Both members and leaders highly appreciate the existence of trade unions and they feel proud of the movement. Both members and leaders also consider trade unions provide better benefits and they would prefer to continue being members to enjoy these benefits<sup>12</sup>. Both groups have registered a mean score of more than 4.00 (about 80 percent of respondents) towards the positive statements. Further analysis of the range of responses from leaders and members indicate that the leaders seem to agree more on the positive statements than the negative one. One possible explanation for this could be that the leaders were reserved in their responses so as not to portray a negative image about the trade union to which they belong and share some responsibility in running.

<sup>12</sup>Few responses (Item 1, 2, 3, 4 & 9) denotes a statistically significant difference among these two groups (Appendix B5).



**Table 2.5: Trade Unions' Movements from Leaders' and Non-Leaders' Perspective**

Opinions	Mean Score		Is the responses statistically difference?	Probability -Value <sup>13</sup> (P-value)
	Member	Leader		
Positive statements				
Union movement is positive	4.25	4.45	Yes	0.013
Glad with union existence	4.35	4.72	Yes	0.013
Proud of movement	4.17	4.27	Yes	0.0001
Better benefits with union	4.22	4.27	Yes	0.001
Unions are favourable	4.16	4.44	Yes	0.006
Negative statements				
Not stay as members	1.69	1.45	No	0.305
Unions have no impact	1.85	1.53	Yes	0.032
Proud being member	1.86	1.57	No	0.631
Still benefit without union	2.51	2.24	Yes	0.0001

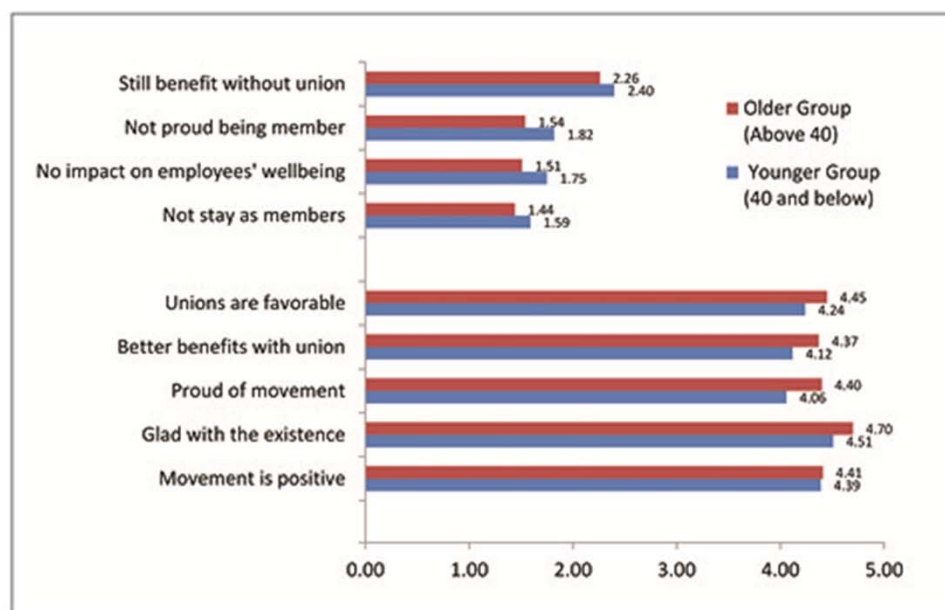
### General Perceptions of Trade Union Based on Age Group

The respondents of this study came from different age groups ranging from 23 to 65 years old. They were then regrouped into two categories namely younger group (below 40) and older group (40 and above). Both groups are in favour towards the union movement in Malaysia. As shown in Figure 2.10, all the mean scores of the positive statements registered a value of more than 4.00 while all the negative statements were less than 3.00. The highest percentage score both of the age groups were when they were asked: if they were glad that the trade unions exist. Meanwhile, the lowest score was a statement on union's having no impact. The responses were dispersed between 'Neutral' to 'Strongly disagree' on the scale.

Comparing the two groups, the older group had the higher mean score compared to the younger group for all the five positive statement listed in Figure 2.10<sup>14</sup>. The reason for the more positive view for the older group could be because its members will have had more experience of the processes and achievements of the union and this affects favourably on how they view the unions progress.

<sup>13</sup>The probability value of less than 0.05 indicates the responses among the leaders and members are significantly different.

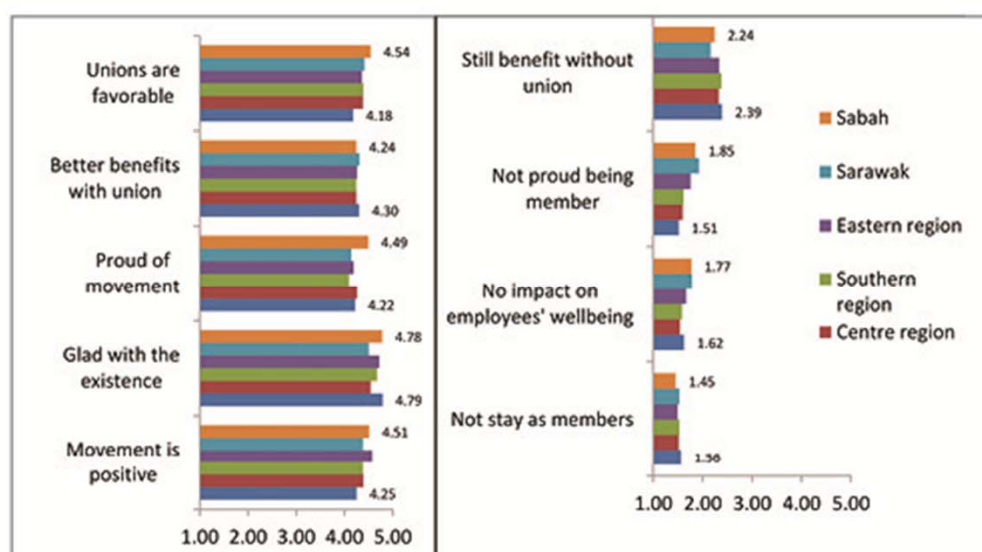
**Figure 2.10 General Views towards the Movement of Trade Union by Age Group**



### General Perception on Trade Union by Regions

Referring to Figure 2.11, there is no clear difference between regions with regards to their perception of trade unions. Both the positive and negative statement indicates that generally in all regions the trade union movement is considered positively and favourably.

**Figure 2.11 General Views towards the Trade Union Movement: Regions in Malaysia**

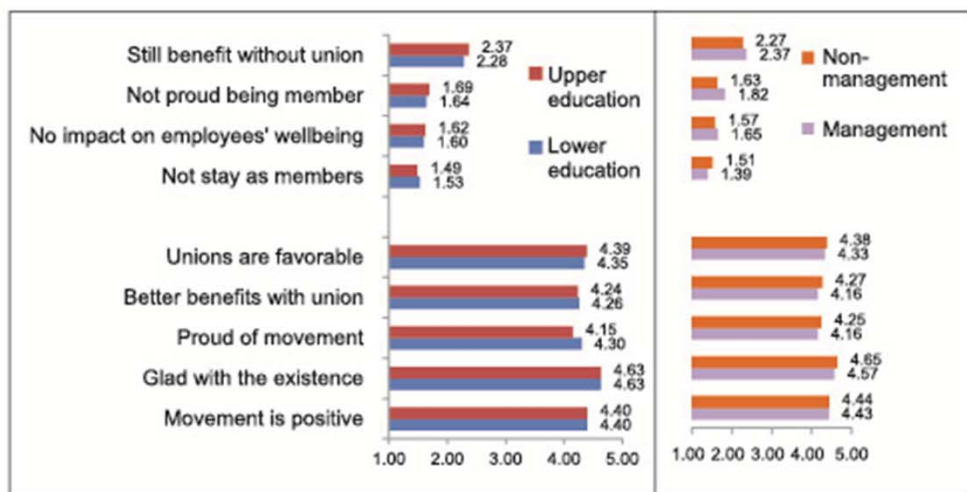


<sup>14</sup>This result is denoted by the lower calculated p-value for some items (Item 3, 4, 5, 6, 8 & 9) in the questionnaire and indicates that the mean of the older group is higher than that of the younger group. For example, referring to item 9, the calculated p-value is at 0.004 which is lower than 0.05 and the mean difference is 0.21 (Older group=4.45, Younger group=4.24)(Appendix B7 & B8).

## General Perception on Trade Union: Level of Education and Occupation Category

To determine if the level of education had any influence on the perception of trade unions by members, the data was categorised into two groups – lower education or upper education. As shown in Figure 2.12, the means of the two groups were close to each other indicating education level had no impact on members overall perception. Similarly, in terms of occupational category no difference in their perceptions was found.

Figure 2.12 Level of Education and Occupational Category and Perception on Trade Unions Movement



## Employers' Views of the Trade Union Movement

As discussed in the previous chapter, 139 employers attended the focus group discussions which were convened to gather their perspectives on the trade union movement in Malaysia - as well as their thoughts on the preparations and readiness for TPPA. The employers came from Selangor, Kuala Lumpur, Kedah, Johor, Sarawak and Sabah whose employees consisted of both the in-house and national trade unions. From the preliminary analysis of these focus groups, the emerging themes reflect the mixed opinions among employers, in all of these six locations, regarding the trade union movement. Interestingly these themes converged towards three aspects of the current trade union movement in Malaysia. These were unions' voice, roles and structure.

### Unions' voice

During the focus group discussions many references were made to the state of the trade union's voice. It was indicated that some employers associated it with weakness. Another emerging theme was that the trade unions were not moving at the pace employers thought they would be, unlike their counterparts in other countries who were more vocal and therefore in a stronger and more effective position. A further converging theme was that many employers think that trade unions make no impact in the labour force.

As noted by one employer the movement is lagging behind; *"they [union's overseas] are fighting more than that. Union in Malaysia, they are moving forward but at a low state, slowly"*. Another employer felt



that the current state of trade unions in Malaysia is too small to create a significant impact in the labour force.

*"Generally the Union movement in Malaysia is actually not that strong. In the sense that their density in this country is less than 10% compared to the total workforce that we have. Of course if you look at the industry itself, it is divided by [type of] industry".*

Clearly the views from employers reflect the common connotation that people have towards trade unions where some employers viewed them as a threat and hence, were not able to work closely with them; *"Trade Union is a threat. Nowadays Trade Unions [are] working closer [closely] but since this is fourth CA [Collective Agreement]. So previously it is a hard time to get along with them".*

The sentiments among some of the employers in the focus group also reflect a view of trade unions as not being able to stand on their own and of being too dependent on the external institutions with regards to how they negotiate with the employer;

*"I know they cannot negotiate for them [members] and most of the time they will use the National Union to speak for them, so the National Union is not local [as in the state within Malaysia]. The one in-house are local people so these issues are our games ..... What I meant is National Union is not local because national union they are from [one of the states in Malaysia]".*

*They are depending on national and others institution than themselves. So now what we can say for the hospitality [industry], for under our group we are having the amicable relationship with them. As long as we can settle any big issue we settle it among the in-house union so far it is that way".*

Another employer thought that trade unions had not created any significant impact in as far as their roles were concerned, although admitting that some unions do stand up for their rights;

*"They always tell generally what they want and their demands. Over the years their voices have been soften so whether they play very important role, I am not too sure but definitely the voice has been soften.*

## Structure

The focus group also revealed that employers acknowledged the current state of trade unions in Malaysia as being fragmented and divided. As noted by an informant from Kuala Lumpur the trade unions movement in Malaysia was too rigid as their formation was limited by trade, industry and regional basis. This view is expected as the current Act limits the formation of general unions;

*"The Union here in Malaysia is divided by industry and then it is divided by the regional region[s] Sabah, Sarawak and Semenanjung. And the other thing is it is divided by the occupations or the trade. So by this segregation the Union movement is actually limited. Meaning to say that of course you have to belong to certain industry or certain trade, or regional to be a member of a union. That is one of the reasons why the union movement here in Malaysia is not that strong".*

*Actually it is the influence that has been diminished as you can't see on paper that people come out. The reason they put up to the individual company is if they set up the in-house union they don't have to go on public".*

The changing structure within the trade unions movement also can be noted from the views that the current membership seems to be swinging away from the past trends. The younger generation is beginning to lose interest in collectivism. This phenomenon is noticeable in the employment structure that witnesses less and less social interaction role among employees when compared to the past. These views were shared by two employers as follows;

*" So I think from our point of view the number of the staff that who would like to join especially among the Gen Y is declining because they do not see the need for them to socialise, probably".*

One is because it is an in-house union and another reason is because the new generation, they no longer socialise. The new generation is more on the practical working part of the union environment [economic].

The less social interaction with fellow union members may also be connected to the changing structure of society as well as the trade union in that today's youth probably have more opportunities and channels to communicate with people than the previous generation.

The structure of a trade union also depends on its leadership as it determines the governance and direction of the institution. With the right leadership and enough exposure on running the organisation, a trade union could very well be a positive movement within the workplace as an agent to uplift the rights of employees they represent.

*" I would like to add on to what Mr Gentleman had said just now. From my personal opinion union is important for check and balance purposes because they represent a group of people, sector of employees to protect their rights and what is govern under their collective agreement but they must be some guidance to the union leaders especially in today's situation".*

## **Unions' Roles**

The discussion with employers during the focus group suggests mixed views on the role of trade unions in Malaysia. While some employers acknowledged their contributions, there were also those who opposed. Generally, employers whose employees are unionised were able to accept their existence while many of those who were not unionised considered trade unions as threats and not needed. As one employer said; *"we don't really need a union in this sense because we are always approachable"*. Similarly, trade unions are portrayed as being too demanding even to the extent of using the force of the law to fight with the employers. This was shared by one employer who stated: *"My personal experience, they are only fighting for employee's rights, and sometimes even after the court has ruled or given the decision, they are still not happy with it."*

Among the focus group participants who were very positive of the roles played by the trade unions in Malaysia came from those in the bigger towns of Kuala Lumpur, Selangor and Johor in which the existence of trade unions are more prominent. For instance, one employer noted that trade unions are



usually easy to work with as long as employers are willing to accept them;

*" Our Union, as long as we are collaborating with them and make them understand, because they are asking everything under the sun, you know. They want minimum wages, the service point not part of their wages, they want it to be a full public holiday as long as you get but you know the thing is they have to understand".*

This opinion was shared by another employer who believes that coordination between both parties is important to create a harmonious relationship. The employer admitted their current trade union is cooperating with them rather than taking the opposite stand;

*" We basically engage them, be part of the team. So they would not have a different kind of mind-set, keep on asking. We want them to grow with us. Even like our Safety and Health, we put them in, to be part of the committee. If we have issues, we talk to them and ask them to settle it for us. And they are very happy inside".*

## Summary

This chapter presents the overview of trade unions locally and abroad. It highlights the general trend in trade unionism and how they relate to various economic indicators. The chapter also presents the perception of trade unions members as well as employers with regards to trade union movement in the country.

The environmental scanning performed in this chapter suggests that trade union density in Malaysia is relatively low compared to other countries particularly the more developed nations. However, no clear association between economics factors and trade union density was found in Malaysia which confirm past research that economic factors alone are not the main influence of trade unions density.

The survey of trade unions members found that the sentiments they had over the labour movement is favourable and had contributed to the improvement of their benefits and wellbeing at the workplaces. Employers however, had mixed views on the trade union movement in which some associated the trade unions movement as being weak and fragmented. The opposite views saw trade unions as positive and provide a mechanism bridging the employees with different facets of employees in the organisation.



## CHAPTER THREE

### EFFECTIVENESS OF TRADE UNIONS

Awg Ideris Awg Daud, Mohamad Suhaidi Salleh, Judhiana Abd Ghani & Dzulzalani Eden

#### 3.1 Introduction

This chapter discusses the findings from the secondary data, survey and focus group discussions, as well as in-depth interviews with key persons in the field of industrial relations and trade unionism in the country. Specifically, the chapter starts by discussing the general perceptions about trade unions as an organisation; factors influencing trade union effectiveness; major problems faced by trade unions; comparison between national and in-house unions; effectiveness of trade unions in terms of their delivery and relationships between trade union organisation and delivery effectiveness.

#### Past Studies on Trade Union Effectiveness in Malaysia

This study adopted a widely used definition of trade union effectiveness by Bryson (2003). He defines trade union effectiveness as *"an effective agency when it can improve the working conditions and employment in seven domains: wage increment, protecting workers from being maltreated by employer, achieving equal opportunities, making work engagement an enjoyable experience, working with management to perform better, increasing management responses from employees and making the workplace a more conducive place for work"* (Bryson, 2003).

Despite the abundance of studies on trade union effectiveness done abroad, little is known about it in the Malaysian context. Studies examining trade union effectiveness in Malaysia are rather limited and also their scope and approaches vary vastly. For example, Taramuraja et al. (2015) conducted a survey on union officials in Selangor and Putrajaya. Similarly, Suhaila et al. (2010) studied members of an in-house union of a manufacturing company. Meanwhile, Satrya and Parasuraman (2011) opted for a qualitative case study on postal companies in Malaysia and Indonesia which involved interviewing and observing the management, union officials and members.

#### Trade Unions Effectiveness from Members' Perspective

In this study a survey was conducted to gauge trade union members' perceptions on trade unions effectiveness in Malaysia. The respondents of this study consisted of 444 trade union members throughout the nation who participated during the seminar conducted in collaboration with the Department of Trade Union Affairs, the Institute of Labour Market Information and Analysis and UNIMAS Holdings Sdn Bhd. This section presents the findings based on their perspectives using the adapted instruments as discussed in Chapter 1.

#### Organisational Effectiveness of Trade Union

The results from the study suggest that trade union members are of the opinion that trade unions organisation in Malaysia are effective. For example, almost 90 percent of them agreed or strongly agreed that *"the union considers members' opinion on work workplace improvement"* and about 87 percent of them also agreed or strongly agreed that *"the trade union always updates the members of what the union is doing"*.

In spite of praise from the members for being effective in carrying out most of their responsibilities, trade unions were arguably relatively less instrumental in addressing some areas of concern. This was particularly so with regard to issues directly related to employers. For instance, approximately 16 percent of the trade union members expressed their disagreement/strong disagreement that *"the employer always discusses with the trade union before implementing any changes at the workplace."* Also, only about 18 percent of them perceived that *"the trade union influences the employer's decision making on employment-related issues"*. Thus, it can be deduced from these responses that trade unions are generally perceived as more effective in their roles to protect the rights of the members but less helpful when it comes to matters concerning employers directly. This could be explained by the power difference between them. Employers are generally seen as more authoritative, powerful and superior than the trade unions. They can dictate many aspects of business activities. For example, it is not easy for trade unions to have access to details on financial information of their employers except to those published in the annual reports. Even then, these reports are only available for public listed companies and not for their smaller counterparts. Therefore, only a small quarter of the trade union members are informed of their employers' financial well-being.

### Dimensions of Trade Union Organisation Effectiveness

A study by Suhaila et al. (2010) identified four dimensions of trade union organisation that affect the effectiveness of trade union delivery. These dimensions include communication within unions, union power, management attitudes and union understanding of employer's business.

The present study drew on these dimensions when constructing the questionnaire used in the survey of union members. A factor analysis was carried out to identify the validity of items used to measure effectiveness of union organisation in the questionnaire. A total of 22 items adapted from Suhaila et al. (2010) and Bryson (2003) were examined using the Principal Axis Factoring with Promax rotation and factor loading of 0.3 as suggested by Kinnear and Gray (2004). However, an item was not loaded into any of the factors leaving only 21 items to be considered in the further analyses. Thus, the results indicate that the analysis produced three dimensions accounting for 58.6 percent of the total variance. These dimensions were further analysed and generated<sup>15</sup>:-

**Factor 1: Communication and Union Power**

**Factor 2: Management-Union Relations, and**

**Factor 3: Union Understanding of Employer's Business.**

Technically, for the dimensions to be used in further analyses they have to be reliable. Thus, a reliability analysis of the items measuring the three dimensions was conducted. Results of the analysis indicated that all three factors, or subscales of trade union organisation, were proven highly reliable because the reliability scores obtained were close to 1, a perfectly reliable state<sup>16</sup>. In addition to the earlier analysis of relative percentages, members' perceptions of trade unions effectiveness can also be alternatively explicated by mean scores of their responses. Table 3.1 proposes that the mean of Communication and Union Power (M = 4.192) is the highest of the three dimensions of union organisation. Responses of trade union members to each of the items in this section were anchored with a 5-point Likert scale with 1 indicating strong disagreement and 5 representing strong agreement to statements given to measure

<sup>15</sup>Total variation explained by these dimensions was about 40.0 percent, 12.0 percent, and 6.5 percent, respectively.

<sup>16</sup>Specifically, the measures of reliability, Cronbach's alphas for the 12-item Communication and Union Power, 6-item Management-Union Relations, and 3-item Understanding of Employer's Business subscales were .918, .862 and .774 respectively (see Appendix C3).



Communication and Union Power. In this case, the mean score of 4.192 lies in between 1 and 5 but obviously it is closer to 5 which shows that trade union members surveyed agreed that factors with respect to Communication and Union Power are important in affecting their perception of the effectiveness of a trade union organisation.

Placed second and third in terms of mean scores are Management-Union Relations ( $M = 3.859$ ), and Union Understanding of Employer's Business ( $M = 3.610$ ). These scores indicate that trade unions members positioned Management-Union Relations and Union Understanding of Employer's Business not as crucial factors that affect trade union organisation effectiveness. In short, trade union members implied that Communication and Union Power is generally perceived as more dominant in affecting trade union organizational structure effectiveness as compared to Management-Union Relations and Union Understanding of Employer's Business.

**Table 3. 1 Union Organisation: Mean, Standard Deviation and Reliability**

Dimension	Item	Cronbach's Alpha	Mean	Standard Deviation
Overall Union Organisation	21	0.918	4.025	0.488
Communication & Union Power	12	0.918	4.192	0.512
Management – Union Relation	6	0.862	3.859	0.703
Union Understanding of Employer's Business	3	0.769	3.610	0.750

Trade union members in this study also indicated the factors that they perceived as important in influencing the effectiveness of trade unions. A total of 10 factors were listed in the questionnaire and trade union members chose and ticked any factors that best represented their perceptions. Their responses are summarized in Table 3.2. Out of the 10 factors, leadership of trade unions (92.8 percent), good relationship with employer (85.1 percent) and negotiation ability (83.7 percent) as well as employers' recognition (83.7 percent) are among the most important factors that they thought as being more influential on the effectiveness of trade unions. Meanwhile the two less influential factors affecting trade union effectiveness were the type of union and length of union existence as 33.7 percent and 30.0 percent of respondents respectively.

**Table 3. 2 Employees' Perspectives of Factors Influencing Effectiveness of Trade Union**

Factor	Percent (Frequency)
Leadership	92.8 (411)
Good relationship with employers	85.1 (377)
Employer's recognition	83.7 (371)
Negotiation ability	83.7 (371)
Number of members	78.6 (348)
Financial	76.3 (338)
Employer's support	76.3 (338)
Communication	70.2 (311)
Type of union	33.7 (149)
Length of union's existence	30.0 (133)



An open-ended question to solicit detailed responses regarding factors trade union members viewed to influence trade union effectiveness complemented the descriptive information discussed in the preceding section. Around 22 of the members shared their diverse opinions on the matter. Although varied, their responses can be classified into five main categories as summarized in Table 3.3. The five categories are trade union power and capacity, relationship with members, legal knowledge and compliance, trade union management and trade union skills and ability.

The first category of factor is *“trade union power and capacity”*. Among opinions expressed about what made unions effective by trade union members in this study was the power of unions to secure information about employers that could then be used to formulate their strategies. In addition, members thought that trade unions are perceived to be effective if they have the power to strike or picket. Meanwhile, examples of responses provided under the second category labelled as *“relationship with members”* included good relationships and cooperation with members and maintaining harmony among them.

In the third category, trade unions are expected to be knowledgeable of the relevant laws and comply with them. Such knowledge enables trade unions to provide members with advice on legal matters and represent them in trade disputes and court hearings. In the fourth category, trade unions that communicate regularly with their members are also seen as effective such as through formal meetings or casual discussions. In these forums, members' issues can be addressed and consequently be brought to the attention of the employer or the relevant authorities. Lastly, in the fifth category of responses, trade unions are also expected to possess the relevant skills in order to practice good industrial relations. Trade unions that own such qualities do gain members' confidence and trust of their ability to execute their duties successfully.

**Table 3. 3 Factors Influencing Trade Union Effectiveness by Categories and Sample of Responses**

Category	Sample of Responses
Trade union power and capacity	Dare to make drastic, correct and timely.
	Union power (e.g. strike, picket procedures should be simplified)
	Secure information on companies' profits to help trade unions in their strategies
Relationship with members	Good relationship with members
	Cooperation from members
	Maintain harmony
	Respect each other
	Solidarity among members
	Unity, trust, honesty of members of union
Legal knowledge and compliance	Follow standard procedures
	Knowledge about laws and employees' rights
	Support from government and laws are biased to employers
Trade union management	Frequencies of meeting with members and accept their opinions
	Include trade unions in decision making involving employees
	Give committee members enough time to manage union activities
	Networking with trade unions and trade unions department
Trade union skills and ability	Good IR practice and skill

## Problems Faced by Trade Unions

Problems are likely to hinder the effectiveness of any organisation and trade unions are no exception. Therefore, the opportunity for trade union members to share problems pertaining to trade unions, either of their own or in general, was also provided in the survey. A total of seven types of common and anticipated problems generated from literature as well as through stakeholders' engagement exercises, were listed for the trade union members to respond to. In this instance, they could tick any of the items that best represented their true responses. Table 3.4 depicts their choices.

In brief, of all the potential problems listed, employer's resistance registered the highest "yes". It means, one of the main concerns of trade unions is the unfavourable attitude of employers toward them (62.7 percent). Such an adverse attitude of employers can be a major stumbling block for trade unions to establish themselves and function in a workplace let alone to be effective. Another problem that was rated relatively high as well was regarding financial matters (54.9 percent). Obviously, an organisation may not be able to function optimally if it is not financed adequately. As a result, trade unions are not able to carry out their activities effectively as they could.

It is understood that the main source of funds for a trade union is membership fees. The more members it has, the more funds it can likely accumulate. For this reason, trade unions members surveyed also viewed lack of membership (55.8 percent) as an equally critical problem. The members themselves saw the importance of having a large membership for a trade union.

Slightly on a different note, trade union independence was rated as the least critical problem (14.6 percent). These trade union members surveyed claimed that trade unions are independent entities. It means, trade unions in general have freedom to decide for themselves without having to be concerned about pressure from other parties.

**Table 3. 4 Major Problems Faced By Trade Unions**

Problem	Percent (Frequency)
Employer's resistance	62.7 (274)
Financial	54.9 (240)
Lack of members	55.8 (244)
Lack of knowledge on trade unionism	51.0 (223)
Internal dispute	47.6 (208)
Leadership	41.4 (181)
Lack of trade union independence	14.6 (64)

## Effectiveness of Trade Union Delivery

Another aspect of trade union effectiveness considered in this study is its ability to execute duties and deliver promises to the members. A total of 15 items were included in the questionnaire to measure effectiveness of trade union delivery. Table 3.5 summarizes the results. As a whole, the mean score of the members' response about trade unions' performance in terms of executing their duties and responsibilities was 3.396. In a scale of 1 = failure to 5 = excellent, it can be concluded that overall trade unions performance was rated in between "fair" and "good". This rating is beneficial for the image of trade unions as representative bodies for workers.



Further analysis of the mean scores for each of the five specific aspects of trade union delivery effectiveness reveals generally almost the same result but slightly different in terms of their degrees. In general, all the five aspects of trade union delivery effectiveness documented mean scores of between "3 (fair)" and "4 (good)". For a more meaningful discussion, each of the aspects of trade union delivery effectiveness was analysed. Noticeably, a single-item that measures the role of trade unions to protect workers against unfair treatment registered the highest mean score of 3.85. This result is not surprising because one of the main functions of a trade union is to protect the rights of its members from being ill-treated by employers in particular. The aspect that was rated second highest was the effectiveness of a trade union to increase its membership. The item registered a mean score of 3.651 that also lies in between "fair" and "good" as well. This result somewhat contradicts with the trend of trade union membership as highlighted earlier in which in general trade union membership in terms of density is on a decline. The reason leading to such a pattern is still unclear.

Ranked third in terms of mean score is the effectiveness of trade unions in helping company to be competitive. The mean score registered was 3.640 so this was similarly placed in between "fair" and "good". The remaining two aspects of trade union delivery effectiveness namely the responsibilities of trade union to improve job security and to negotiate for pay, benefits and working conditions registered mean scores of 3.167 and 3.309 respectively. These relatively lower mean scores indicate that trade unions, as viewed by their members, were considered comparatively less effective in championing for better job security, pay, benefits and working conditions.

**Table 3.5 Union Delivery: Mean, Standard Deviation and Reliability**

Dimension	Number of Items	Cronbach's Alpha	Mean	Standard Deviation
Overall Union Delivery	15	0.930	3.396	0.652
Negotiate for pay, benefits, and working condition	2	0.854	3.309	0.959
Improved job security	7	0.917	3.167	0.744
Help company to be more competitive	3	0.906	3.640	0.808
Increase membership	2	0.843	3.651	0.824
Protect workers against unfair treatment	1	-	3.85	0.901

Subsequent item analyses produced more detailed results. Outcomes from the survey advocated that trade unions ability to protect members against unfair treatment was the only aspect rated as "good" and "excellent". This response suggests that members believe that their trade unions are able to safeguard them from being treated unlawfully particularly by the management or employer.

Meanwhile, the other features of trade union delivery were generally rated either "fair" or "good" only. The results also seem to suggest that trade union has less say on how the employer makes decision about its business. For example, trade union's delivery was evaluated "fair" and "good" for the items like "the union's ability to help the employer to be more competitive in their business" and "the union's ability to assist the employer to be more productive". One of the reasons for this pattern of responses could be because trade unions see that the right to determine how production and business should be run fall within the managerial prerogatives. If this is the case, trade unions will have less or no say at all, especially so for small and weak trade unions.



Additionally, trade union members also appeared to disagree with the statement that “the outcome of wage negotiation has been most favourable towards unions”. These items registered relatively higher percentages for “failure” and “poor” of 8.6 percent and 26.4 percent respectively.

### **Relationship between Union Organisation and Union Delivery Effectiveness**

Studies have indicated that union organisation influences union delivery effectiveness (e.g., Suhaila et al., 2010). Therefore, to assess the magnitude and direction of the relationship between trade union organisation (communication and union power, management-union relations, and union understanding of employer’s business) and trade union delivery effectiveness, a bivariate Kendall’s Tau-b correlation coefficients ( $\tau$ ) was calculated. Prior to calculating  $\tau$ , the assumption of normality, linearity and homoscedasticity were assessed, and found to be unsupported indicating the non-normality of the data. Hence, a nonparametric test, Kendall’s Tau-b correlation coefficients ( $\tau$ ) was deemed appropriate for the subsequent analyses.

Results of the analysis show that the bivariate correlation between the general trade union organisation and trade union effectiveness was  $\tau = .461$ ,  $p < .001$ , two-tailed,  $N = 376$ . Thus, it can be concluded that there is a significant positive association with a medium strength between trade union organisation and union delivery effectiveness.

Further analysis of the subscales of trade union organisation that include communication and union power, management-union relations, and union understanding of employer’s business and union effectiveness was moderate and positive,  $\tau = .719$ ,  $p < .001$ , two-tailed,  $N = 414$ ;  $\tau = .647$ ,  $p < .001$ , two-tailed,  $N = 414$  and  $\tau = .524$ ,  $p < .001$ , two-tailed,  $N = 414$ .

Consequently, a multiple regression analysis was conducted to examine the relationship between union organisation together with its dimensions and union effectiveness. The results of the analysis are reported in Table 3.6. About 44.5 percent of the variability in union delivery effectiveness is significantly explained by the three dimensions of union organisation, i.e. communication and union power, management-union relations, and union understanding of employer’s business. The results also indicate that all three dimensions of union organisation significantly predict union effectiveness.

Although  $R^2$ , defined as the proportion of variation in trade union delivery effectiveness that can be explained by the three union organisation factors in combination, is an inadequate index of effect size for multiple regression. Thus, based on Cohen’s (1988) guideline, the effect of union organisation on trade union delivery effectiveness in the current study is considered large.

**Table 3. 6 Multiple Regression Analysis of Union Organisation Dimensions and Union Effectiveness**

Variable Entered	Union Effectiveness				
	Unstandardized Coefficients		Standardized Coefficients		
	B	Std. Error	Beta	t	Sig.
(Constant)	4.755	3.136		1.517	.130
Communication & Union Power	.304	.070	.196	4.333	.000
Management-Union Relations	.919	.106	.405	8.672	.000
Union Understanding of Employer's Business	.905	.195	.215	4.636	.000

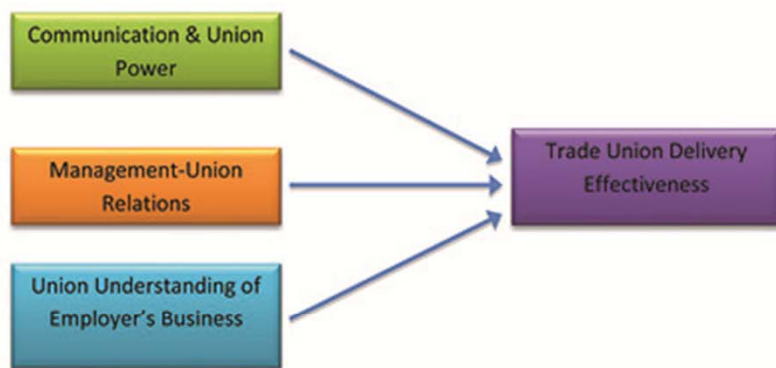
Dependent Variable: Union Effectiveness

Independent Variables: Communication & union power; Management-Union relations; Union understanding of employer's business.

R Square = 0.445; F = 99.507; R = 0.667 ; \* p <= 0.001

Putting all the preceding arguments together, the relationships between the three factors of union organisation and trade union delivery effectiveness can be simplified by a diagram (Figure 3.1). Trade union organisation consists of three dimensions namely communication and union power, management-union relations, and union understanding of employer's business. Meanwhile, trade union delivery effectiveness embraces five aspects - negotiate for pay, benefits, and working conditions, improved job security, helps company to be more competitive, increase membership and protect workers against unfair treatment. All the three dimensions of trade union organisation were proven to have influence on the trade union delivery effectiveness.

**Figure 3. 1 Study Model**



The results of multiple regression analysis may not clearly show the relative contribution of each of the three factors of union organisation to trade union delivery effectiveness. Thus, a further analysis using hierarchical regression was performed.

On step 1 of the hierarchical MRA, communication and union power was the only factor included. Results show that this factor contributed a significant 22.8 percent to the change in trade union delivery effectiveness (i.e.  $R^2 = .228$ ,  $\Delta F(1,374) = 110.304$ ,  $p < .000$ ). Next, on step 2, management-union

relations was added to the regression equation, and accounted for an additional 17.4 percent of the variation in trade union delivery effectiveness (i.e.  $\Delta R^2 = .185$ ,  $\Delta F(1,373) = 117.841$ ,  $p < .000$ ). Finally, on step 3, union understanding of employer's business was added to the regression equation, and it has decreased to 1.9 percent of the change in trade union delivery effectiveness (i.e.  $\Delta R^2 = .032$ ,  $\Delta F(1,372) = 21.491$ ,  $p < .000$ ).

Thus, it can be concluded that communication and union power contributed the most to trade union delivery effectiveness followed by management-union relations and union understanding of employer's business. In combination, the three factors explained 44.5 percent of the variability of trade union delivery effectiveness (i.e.  $R^2 = .445$ , adjusted  $R^2 = .441$ ,  $F(3, 375) = 99.507$ ,  $p < .000$ ). By Cohen's (1988) conventions, a combined effect of this magnitude can be considered "medium".

### **Trade Union Effectiveness: A Comparison between National and In-house Unions**

Another aim of this study is to examine the differences, if any, in views among trade union members with regard to trade union effectiveness between national and in-house unions. At a glance, the mean scores between national and in-house unions on any aspects of trade union effectiveness seemed to be different. However, the extent of their differences cannot be confirmed unless a proper statistical test is performed. For this reason, a series of independent sample t-tests were conducted. Table 3.9 summarizes the outcomes of the tests. The values in the column labelled P-value show whether the differences of mean scores between national and in-house unions are meaningful or otherwise. Additionally, asterisks attached to the numbers represent the degree of meaningfulness of the differences as well as denoting the confidence levels to conclude the differences. The more asterisks are present, the more confident is the conclusion that the difference between mean scores exist. For example, the three asterisks (\*\*\*) indicates that we are 99 percent sure that the mean scores between national and in-house unions are meaningfully different.

In the current study, national and in-house unions were profoundly different in four instances. For example, trade union members thought that national and in-house unions were distinctive in terms of management-union relations. The mean score for in-house union (mean = 3.977) is higher than national union (mean = 3.781). Thus, we can say that the trade union members believed that in-house unions' relations with management were better than that of the national unions. One possible reason to support the finding could be because in-house unions are "physically present" and likely, and more frequently, to be directly in contact with the management. These close and frequent interactions serve as an important platform for in-house unions to develop sound relations with the management that is key to achieving trade union effectiveness.



**Table 3. 7 Multiple National Union versus In-House Union: Comparisons of Union Organisation and Union Delivery Effectiveness**

Dimension	Type of Union	Mean	Standard Deviation	P-value
Union Organisation	National	3.994	0.471	.170
	In-house	4.068	0.521	
Communication & Union Power	National	4.189	0.483	.880
	In-house	4.197	0.520	
Management-Union Relations	National	3.781	0.736	.008***
	In-house	3.977	0.663	
Union Understanding of Employer's Business	National	3.557	0.772	.200
	In-house	3.656	0.721	
Union Delivery	National	3.342	0.639	.055*
	In-house	3.480	0.665	
Negotiate for pay, benefits & working condition	National	3.217	0.964	.061*
	In-house	3.407	0.955	
Improve job security	National	3.097	0.751	.021**
	In-house	3.279	0.740	
Help company to be more competitive	National	3.600	0.841	.328
	In-house	3.680	0.734	
Increase Membership	National	3.609	0.802	.228
	In-house	3.717	0.878	
Protect Workers Against Unfair Treatment	National	3.850	0.060	.542
	In-house	3.910	0.072	

A trade union's effectiveness is measured by how well it executes the responsibility as a representative for its members. In the present study, a comparative analysis showed that both national and in-house unions differ significantly in terms of their delivery effectiveness as perceived by members. Based on the means scores on this facet, in-house unions are perceived to have accomplished better than national unions.

Union delivery effectiveness is a generic measure that comprises five dimensions, namely their ability to negotiate for better terms and conditions of employment; improved job security; assisting company to be competitive; increase membership and safeguard members against unfair treatment. The results reveal better insights if analysed based on these dimensions.

In terms of improvement of job security, the test results seemed to suggest that in-house and national unions mean scores are also validly different. Specifically, in-house mean score (mean = 3.279) on this aspect is higher than that of national union (mean = 3.097). The result also proposes with 95 percent confidence that the difference is valid. Thus, it can be said that trade union members feel the in-house unions are more capable than national unions to improve their job security such as acquiring better wages, terms and conditions of employment.

Although statistically insignificant, the results of the comparative analysis between national and in-house unions did illustrate slight differences on other dimensions. For example, in terms of unions' duties to assist company to be competitive, to increase membership, and to protect workers against unfair treatment. In this instance, both national and in-house unions were viewed to possess similar capacity to fulfil their roles.

## **Employers' Views of Trade Unions Effectiveness**

The objective of trade unions in the workplace always curves towards the interest of the workers. On the backdrop of the nation's economic growth and political environment, the effectiveness of trade unions as a mechanism for improvement of workers' conditions is affected by external and internal factors surrounding the industrial relations process.

The effectiveness of trade unions can be influenced by a variety of factors, such as organisational culture, degree of collaboration, sense of purpose, and management style. However, this part of the study highlights effectiveness within the trade union movement from the perspective of the employers. Based on information collected from focus group discussions, effectiveness of trade unions was seen to emanate from competence in three areas. The three key themes identified were:-

- Leadership and Union Structure
- Communication within the Union and Power
- Management and Trade Union Relations

## **Leaderships and Union Structure**

Leadership, commonly refers to the ability of a person to influence others to achieve the desired objective or target of an organisation. In the case of trade unions, the leader is seen as the influential factor driving the trade union to be an effective organisation. Visionary leaders may influence the trade union movement by strengthening the union structure. The majority of employers noted that a good leader will increase the power of a union. While the communication factor, (discussed in more detail in the next section) contributes to some extent, the role of the union leader is seen as crucial to the union's existence. It is generally recognized that the performance associated with a group is basically determined by the standard of the leader's performance. Effective leadership behaviour facilitates the attainment of the members' desires, which in turn leads to an effective union. Conclusive findings from the focus group discussions show that the type of trade union leader influences the level of effectiveness of union movement. As mentioned by one employer,

*" The first thing [we have to look] is who the leader is. Likely for us, we have quite a good union] leadership team. I think we were lucky but unfortunately there are [existed] some hard core people in the union who continuously working in the union".*

## **Communication within union and power**

People in organisations spend much of their time communicating in order to accomplish objectives and goals. In other words, the communication process is a primary means for effecting outcomes and



accomplishing goals. Internal communication also provides employees with important information about their jobs, organisation, environment and each other. Communication can help motivate, build trust, create shared identity and spur engagement; it provides a way for individuals to express emotions, share hopes and ambitions and celebrate and remember accomplishments. Communication is the basis for individuals and groups to make sense of their organisation, what it is and what it means.

As pointed out by a human resource officer from the services sector;

*"I supposed, without having a proper communication, forum between government, employer and also the Trade Union, we won't be able to achieve the same vision and mission. Because they used to be influence [by] unnecessarily [interest] and fight for something that is not add [adding] value to the union".*

This statement was supported by another employer, adding that an open discussion such as a forum, between management and union, has improves effectiveness. He pointed out:-

*"Actually to make the Union effective we need to have a forum, frequently forum. If they want to highlight the issue they entertain the issue based on current situation and the top management also have to give the direct tips to deal with the Union"*

## **Management – trade union relations**

To be effective when highlighting workplace issues trade unions require a constructive relationship between them and management. If there is a positive relationship, where each understands and respects the role of each party, then there is more likely to be a positive outcome. Likewise the reverse is true. It is to be expected that management will constantly put the interests of the organisation as their top priority over the interests of the union but management also may see that the overall goals of the organisation can be best served by having good and productive working relationships with their employees.

The majority of the employer from the service industry shared the same feeling towards the need for a positive relationship between management and trade union. The positive connection in their words refers to the willingness of trade union to follow the agreed terms and conditions at the workplace. This might lead to a harmonious relationship and widen their opportunity in the negotiation process. As an employer from service sector stressed;

*"...a [positive] relationship between management and trade union, giving opportunity for worker to get what they demand for".*

Effectiveness of In-House Trade Unions versus National Trade Unions. Based on a series of focus group discussions with the employers, the majority seem to suggest that in-house unions are more effective. For example, one employer affirmed that the in-house trade unions have a better understanding of companies in which they operates. In addition, their awareness of the legislation involved also contributed to their effectiveness and hence, influences their movement.

*"I think in-house will be better, they can do better. In-house is more effective because they know their environment so it is easy when the legislation is there. When management comes to the representative they know their environment. So I think that would be more effective".*



Another focus group participant stated that from his experience of dealing with both the in-house and national trade unions, he still believe that despite the national trade unions seem to be stronger in terms of their movement, in reality they were not able to work effectively for members in the individual companies they represented.

*" I have been in both industries (national and in-house) where I managed national union and in-house unions. The national union of course it seems to be quite strong in movement, but actually in the reality if we look in the individual company itself that is being represented by national union, the union itself not that strong".*

The effectiveness of trade unions is also influenced by the relation between employers and employees. Bilateral relations between trade unions and employers to establish a harmonious relationship, is only possible if they have good understanding of each other's expectations. The notion of 'know who' is always present in this bilateral relationship and this is one of the good features of in-house trade unions as highlighted by another employer;

*" We have one company that has in-house union. What I see, negotiation can be friendly because they know each other well. The management knows who the union heads are. I can remember when they had a negotiation, it was settled in one seating only".*

Similarly, another employer affirmed that the in-house trade union is easier to work with as it is part of the company and with close relationship, problems are able to be solved internally;

*" My view is that we should look differently between in-house and national. Because for in-house normally we do not have much problem, [it] is manageable internally. We can engage with them anytime. Even from phone call, you can solve the problem".*

The effectiveness of trade unions is also dependent upon the depth of their understanding of employer's expectations. One employer believes that the in-house trade union is able to deliberate effectively in the negotiation process in meeting both the needs of their members and the employer's threshold. This employer argued that the national trade unions tend to act against the company because they do not understand the actual situations. This suggests that as the national trade unions do not understand the problems or issues peculiar to one specific employer, they may not be able to be resolved effectively. Hence, this resulted in them becoming very aggressive to the employer.

*" In terms of effectiveness, I think it depends on the industry because as far as we are concerned, we prefer in-house because the discussion will be more focused. National, they may not know the actual situation on the ground, they started attacking".*

## **Findings of In-Depth Interviews**

Based on two in-depth interviews with an official from an employer's association and another with a prominent leader of a national trade union, it was found that the two informants have similar views regarding the effectiveness of trade unions. They both recognized that the national trade unions are more effective than in-house trade union. However, in terms of their reasoning, suggest a different perspective of why they consider the national trade unions are more effective. The official of the employer's association stated that as the national trade unions have bigger membership base, they are

## Summary

As a result of the globalisation process, content and coverage of free trade agreements (FTAs) have been further expanded. They do not now only include traditional commercial matters - such as reduction of tariff barriers (tariffs, quota, and customs) - but also include labour and environment issues which are not directly related to traditional trade. Being talked up as the 21st century trade agreement, the Trans-Pacific Partnership Agreement (TPPA) includes the strongest provisions on labour in history. TPPA envisages strong worker protection, requiring all TPPA members to meet core labour standards as set out in the International Labour Organization (ILO) regulations. Chapter 19 (Labour) of the TPPA (the Labour Chapter) specifically requires TPPA members (all of which are ILO members) to adopt and maintain internationally recognised labour rights including; the freedom of association; the right to collective bargaining; the abolition of forced labour; the prohibition of child labour; and the elimination of discrimination in employment. Specifically, Chapter 19 of the TPPA known as the Labour Chapter requires Malaysia to reform its labour laws and policies in tandem with the international standard particularly on trade unionism which is one of the subject interests of the current study.

In addition to the main TPPA, the US separately negotiated a bilateral side agreement which is known as the LCP with Malaysia, Vietnam, and Brunei Darussalam. This plan provides a significant step towards compliance with the ILO requirements, demanding the implementation of specific legal and regulatory reforms in their relevant domestic laws prior to allowing those countries officially to enjoy TPP trade benefits. With the signing of the Trans-Pacific Partnership Agreement (TPPA), the Government will have to "liberalise" the Trade Unions Act, Industrial Relations Act and the Employment Act for improving the public perception of labour rights in Malaysia's industries. This could in turn attract greater business and investment opportunities for Malaysia's industries.

In order to identify the understanding and readiness of trade union on the implementation of the TPPA, the survey among the union members and focus group discussion among the employers was conducted across six regions as well as in-depth interviews. The findings show that union members across all the regions surveyed generally have low understanding, with mean scores between 1.91 to 2.35 regardless of their position in unions (members, leaders and non-leaders) and type of unions. In addition, the mean scores indicated all three dimensions of readiness were very low for overall union workers regardless of their region, category of occupation or education level. The mean scores for the three dimensions were 1.42 for elements of foreign nationals, 2.25 for membership structure; and 2.73 for freedom of union formation. Although, there were some variations in the responses towards readiness on TPPA in several regions; for example, the mean score was the highest among members in the northern region (mean=2.86) for acceptance of freedom in formation of the trade unions, while the southern region registered the lowest level of readiness to accept the influence of foreigners into the trade union movement (mean score =1.30). Overall the respondents were 'not ready indeed' or 'not ready at all' to accept foreign workers to be part of their unions' leadership. Similarly to the employers, they have had low understanding about the TPPA and shared the same feelings towards readiness especially regarding to the elements of foreign nationals. Clearly, findings from the survey as well as focus group discussion for employers emphasised the importance of guidelines and clear information about the TPPA not only by unions but by other parties including the government for avoiding speculations and assumptions.



Both informants agree that the educational level and leadership are two factors contributing in building an effective trade union. Leadership is the most important thing in strengthening trade unions. Both informants have similar views on this matter. Leadership role aimed at providing more effective services to members of trade unions. Official from employer's association sees that positive developments occurred on the trade union with number of educated leaders are increasingly leading the trade union. As for the trade union, it provides to the leaders a relevance courses with the hope they will understand better the legal matter of trade union (Box 3D).

#### Box 3D : Education and Union Effectiveness

*"The reason [national union more effective] is they are more educated, more experienced and more knowledgeable on unionism as compared with in-house union. So another thing is that a union leader, whether they are effective or not, depend on not only their knowledge, not only their experience whether they are trustworthy or not."*

*(Official from employers' association)*

*"So I am just saying leadership plays an important role ... [and] we also have leadership training courses for our grassroots leaders. So that they understand the Trade Union functions according to the constitution, according to the law"*

*(Leader of a national trade union)*

## Summary

Trade union effectiveness is a concept that measures how well a trade union serves as a voice mechanism for the members in executing its expected duties and responsibilities. Past studies have indicated that this concept can be measured by union organisation and union delivery effectiveness. Trade union organisation was initially claimed to be represented by four dimensions but in the present study only three were apparent, namely communication within unions, management attitudes, and union understanding of employer's business.

Meanwhile, trade union delivery comprises five dimensions. Looking at the relationship between union organisation and union delivery effectiveness, regressions analyses confirmed the important roles played by three dimensions of union organisation found in the study in affecting trade union delivery effectiveness. Communication and union power was found to be relatively more dominant among the three factors. National and in-house unions were also found to differ meaningfully in some aspects of trade union organisation and union delivery effectiveness.

The analysis of the employers' view of what constitutes trade union effectiveness identified three themes, namely leadership and union structure; communication within the union and power and management and trade union relations.



# CHAPTER FOUR

## TRADE UNIONS MOVEMENT AND THE TRANS-PACIFIC PARTNERSHIP AGREEMENT

*Judhiana Abdul Ghani, Claudia Jiton & Abdul Jabbar Abdullah*

### Introduction

This Chapter attempts to explain Malaysia's national interest in the pursuit of its quest to join the Trans-Pacific Partnership Agreement (TPPA) particularly by focussing upon the Labour Chapter, the Labour Consistency Plan (LCP) and how they relate to the trade union movement. It summarises secondary information on the development of TPPA and how it will change trade union movements and policies. The Chapter then reports the findings from the survey of trade union members on their understanding of and readiness for TPPA. In addition, the findings from the focus group of employers are also reported.

### Trans-Pacific Partnership Agreement and the Malaysian Economy

TPPA is a comprehensive trade agreement that will open markets, set high-standard trade rules, and address the 21st-century issues in the global economy. Presently it involves 12 member countries in the Pacific Rim; Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, United States (US) and Vietnam. The 12 countries collectively accounted for about 40 percent of the global economy, with a cumulative gross domestic product of almost USD30 trillion, and a population of more than 800 million, as of 2014 (PWC, 2015). From the perspective of economics, Malaysia expects that TPPA would serve its desire for trade expansion, market access, domestic economic growth as well as investment opportunities.

TPPA warrants Malaysia with an expanded market base which has a combined GDP of USD27.75 billion and per capita income of USD34,752 as well as accessibility to a 12 country market which constitutes a quarter of the world's trade (Loi, 2014). Most importantly, TPPA will provide Malaysia with market access to four trading partners that Malaysia presently has no free trade agreements with, namely; Canada, Mexico, Peru and the US. These four countries accounted for about 74 percent of the market size of the TPPA economic bloc, with a GDP of about USD21 trillion as of 2014 (PWC, 2015). In the long run, greater competition and economies of scale arising from TPPA are envisaged to compel firms to raise production efficiency and lower the cost of goods and services to consumers. With such advantages, TPPA is thus, an arrangement that seems to be inevitable and the government's decision to be part of it is evident as the country is ready to adhere to high-standards in trade and investment treaties.

The TPPA negotiations began in March 2010, with Malaysia joining the negotiations in October 2010. The participating countries reached an agreement on the TPPA on 5 October 2015 in Atlanta, US, marking the conclusion of the TPPA round of negotiations. Apart from providing market access to goods, services and investment, the TPPA includes the issues of harmonising the rules and disciplines for new and emerging trade and cross-sectoral matters, such as government procurement, competition with state-owned enterprises, intellectual property rights, the digital economy, labour and environmental issues (PWC, 2014). During the five-year negotiation process, our country managed to raise the needs to have some flexibility after considering various concerns from the stakeholders. Malaysia has been given an extended timeline to reduce and remove tariffs on certain products as well as to change its employment

related law and policies. Specifically, Chapter 19 of the TPPA - known as the Labour Chapter - requires Malaysia to reform its labour laws and policies in tandem with the international standards adopted in the agreement, particularly on trade unionism which is a key subject of interest in the current study.

### **The Labour Chapter and Trade Unionism**

The Labour Chapter contains provisions that are to be observed to ensure that trade and investment activities between the member countries are not implemented at the expense of workers' rights. This Chapter is included in the TPPA for the purpose of: (i) safeguarding social protection; (ii) providing tools against unfair competition (as violations of labour standards can distort competitiveness); (iii) avoiding trade liberalisation leading to a race to the bottom with regards to labour standards which may happen if the necessary safeguards are not in place; (iv) increasing general protection for workers globally; and (v) strengthening measures to protect workers in the domain of international trade.

The main obligation in the Labour Chapter requires all the participating countries to adopt and maintain the four principles of the ILO Declaration 1998 known as the Fundamental Principles and Rights at Work into their respective labour laws. These principles include:- freedom of association and the effective recognition of the right to collective bargaining; elimination of all forms of forced or compulsory labour; effective abolition of child labour; and elimination of discrimination in respect of employment and occupation. These principles permit labour provisions to be realistically incorporated into international trade agreements.

The adoption of the ILO Declaration 1998 principles may not necessarily require the ratification of any of the ILO Conventions but, in order to meet the TPPA obligations, all the participating countries are expected to amend their existing laws and practices relating to labour provisions by integrating these principles into their labour laws. Malaysia is not an exception to this requirement and hence, along with Vietnam and Brunei, has reached an agreement with the United States, known as the 'Malaysia – United States Labour Consistency Plan (LCP)' which is a bilateral instrument that is in accordance with the TPPA labour standards. The LCP has to be materialised in order to meet the obligations of TPPA. It is legally binding, despite the LCP not being attached to the Labour Chapter as reference is made to the obligations within the LCP within the Chapter. Thus, the LCP basically outlines the commitments to be undertaken by Malaysia in order to fulfil the obligations outlined in the Labour Chapter. Among these are executing legal reforms in the areas concerning freedom of association and the right to collective bargaining; elimination of forced labour; abolition of child labour and the elimination of discrimination in employment. Most importantly, this commitment also encompasses changes in the procedures of trade union registration and cancellation; limitation on the formation of unions across similar trades; occupations or industries; possible affiliation of trade unions with international bodies; restriction on trade union leadership; restriction on the scope of collective bargaining; right to strike and representation in judicial and administrative hearings.

These developments necessitates trade unions to be aware and most importantly be ready for the implementation due to the significant impacts it will have on the industrial relations practices in the country. The adoption of the ILO core labour standards - particularly the rights for freedom of association - would allow workers in Malaysia to form multiple unions in an organisation; be members of multiple unions across occupations and industries; and hold strikes based on the consent of a simple majority. This would bring Malaysia in line with international standards with regards to trade unionism. In other words, it will become easier for workers to form in-house and national unions; to engage in effective collective bargaining and also to ease the procedure to organise strike.



The Labour Chapter however, does not inhibit Malaysia from implementing additional domestic regulations that could help to manage risks of costly labour disruptions. The Government may continue to impose conditions as prerequisites for carrying out the legal strikes such as achieving a minimum quorum or a simple majority threshold through a secret ballot, and providing adequate notice prior to strike. Such regulatory measures and guidelines would allow the Government and relevant industries to manage the risks of disruptions arising from labour disputes. The implementation of such domestic measures is practiced in the more advanced economies such as the European Union, and several regional economies such as Singapore. Also it can be argued that such costly strike action can be minimised if the norms in companies are such that areas of contention are reduced by having in place good industrial relations practices including constructive and effective communication channels to discuss and resolve areas of contention. The labour standards incorporated into the TPPA intend to ensure such mechanisms exist.

By agreeing to the Labour Chapter Malaysia is predicted to gain benefits from many aspects. From an industrial relations perspective, these including an increase in the country's labour standards in tandem with the high obligations set for all sides in the Chapter; improved protection through legislations for workers and allowing trade unions more opportunities to self-regulate union activities. For the employers, the benefits are generally seen across different Chapters such as the opening up of four new markets – US, Canada, Mexico and Peru; the new benefits and opportunities such market access brings for goods and services – mainly a duty free market of 800 million people; investment benefits – such as attract Foreign Direct Investment and opportunities for Malaysian investors going abroad; and integrating Small Medium Enterprises into the global supply chain. These are the evident attractions to business yet employers might not yet realise that the strengthening of workers' rights can also be an advantage to their productivity and competitiveness in the long term. Explaining this view is one of the issues for the relevant agencies under the Ministry of Human resources to take on board as well as understanding employers' concerns.

## **Trade Unions' Awareness and Readiness on TPPA**

The purpose of this section is to analyse information, gathered from the trade union members' survey and the employers' focus groups, concerning the degree to which both these parties - across different sectors and industries (automotive, banking, telecommunication, engineering, services etc.) - have awareness, general understanding, and readiness regarding TPPA. More importantly, the purpose of this assessment is to gain a better understanding of the preparation needed to assist the Government, employers and members of unions to face the implementation of TPPA more effectively. This section discusses the findings in two sections; the quantitative findings from the trade union members' survey and the qualitative findings of the focus group discussions with employers.

## **Findings of the Trade Unions Members' Survey**

This section presents the findings of the trade unions members' survey by analysing the mean differences between the varied industries taking part. It focuses on each of the three key elements - general understanding, awareness and their readiness for TPPA.

Understanding with regard to the implementation of TPPA. Table 4.1 represents the instrument used to analyse the level of understanding and awareness with regard to the implementation of TPPA among the trade unions members. It covers the main elements of the Labour Chapter and the LCP consistent with



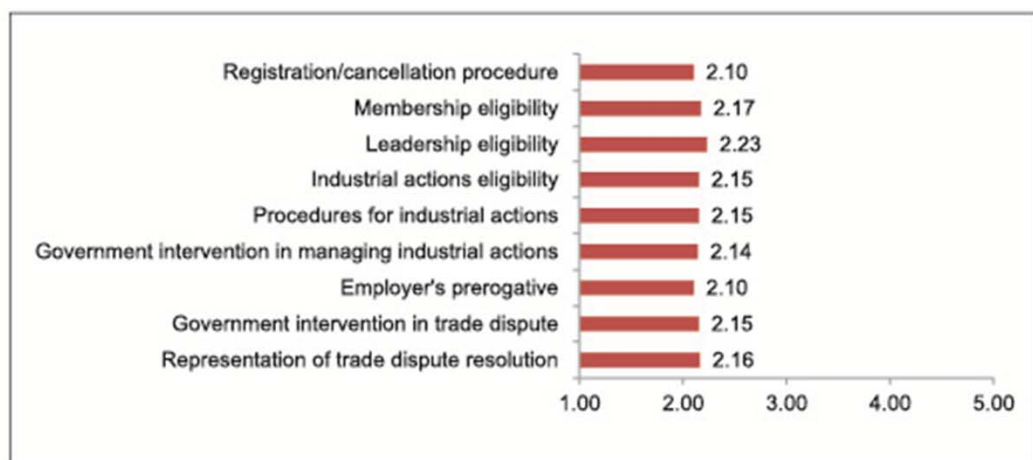
the ILO Fundamental Principles and Rights at Work particularly on the Freedom of Association and the Effective Recognition of the Right to Collective Bargaining. A five point Likert scale, ranging from point 1 = Very low understanding to 5= Very high understanding, was used.

**Table 4. 1 Measuring Understanding on TPPA**

Instruments
Trade Union Registration and Cancellation.
Union Membership Eligibility.
Eligibility to be a Union Leader (e.g., Citizenship, Nationality).
Eligibility for Industrial Actions
Procedures for Industrial Actions (e.g., Strike, Pickets).
Government Intervention in Managing Industrial Actions.
Employer's prerogative
Government Intervention in Trade Dispute.
Representation In Dispute Resolution. (e.g., Lawyers, Union Leaders)
Government Intervention in Trade Dispute.

Awareness of TPPA among the trade union members. The study has revealed that trade unions members had very low understanding of the changes that will occur with regards to trade unionism following the implementation of TPPA. The majority were unaware of all these changes which have been proposed by the government although the information has been widely disseminated via engagement and the mass media. Based on a five point Likert Scale, their mean score range was between 2.10 to 2.23 on all of these aspects, including registration and cancelation procedures, eligibility to become members and leaders of a trade union, as well as the government's role in managing industrial actions (Figure 4.1).

**Figure 4. 1 Understanding on the Changes to Trade Unionism after TPPA**



TPPA Awareness and Types of Union. The analysis was further extended to examine whether there were differences in the general understanding and awareness between the members of the national and in-house unions. Figure 4.2 shows that, although the members of national trade union registered slightly higher means scores than the members of in-house unions, the differences were very minimal indicating similar low levels of knowledge. Their mean scores were between 2.09 to 2.30 compared to between 2.06 to 2.20 among the in-house trade union members. Meanwhile, the result shows that the knowledge pertaining to changes to government intervention in trade disputes was much greater among the members of the national trade unions<sup>17</sup>. The mean score for the members of national-union was 2.30 compared to 2.06 among the in-house trade unions members but again both groups had low understanding, although the results indicate that the information disseminated had, not surprisingly, penetrated national unions more than the dispersed and smaller in-house unions.

**Figure 4. 2 Understanding on the Changes to Trade Unionism after TPPA by Types of Union**



Members versus Leaders and their Level of Understanding. This study also examined the level of understanding between the ordinary members and leaders of the union on the changes to trade unionism as a result of TPPA. The leaders being at the forefront of the trade unions movement are expected to have been exposed to these during a series of engagement in 2015 and early 2016 by the Ministry of Human Resources, yet the result of the study proved otherwise. Figure 4.3 shows that the mean scores are similar between leaders and ordinary members in all aspects. For the purpose of trade union effectiveness, it is paramount for leaders to have sufficient knowledge on the future changes in trade unionism to ensure the continuous strength and stability of the union.

<sup>17</sup>The statistical t-test generates p-value of 0.041 indicating significant difference in responses between two unions.

**Figure 4. 3 Understanding of the TPPA Among Leaders and Non-leaders**



Understanding and awareness about TPPA by regions. The respondents of this study comprised of six regions in Malaysia, as shown in Table 4.2 in which leaders comprise 79.4 percent of the total respondents with Sabah having all the respondents among the leaders while Southern had 41.1 percent members as respondents.

**Table 4. 2 Distribution of Members and Leader by Regions**

Status	Northern	Central	Southern	Eastern	Sarawak	Sabah	Total Respondents <sup>18</sup>
Member	33.8	26.8	41.1	15.3	13.2	0.0	109 (24.9%)
Leader	66.2	73.2	58.9	84.7	86.8	100.0	328 (75.1%)
<b>Total</b>							<b>437 (100.0%)</b>

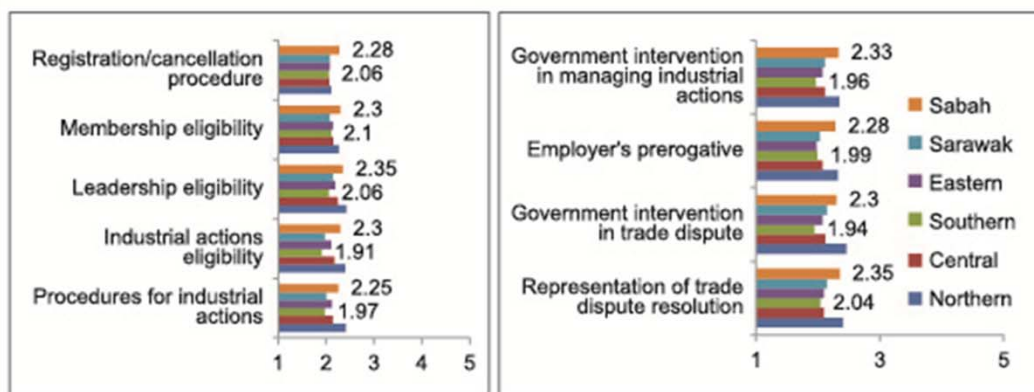
In general, the study found that for all the regions the understanding among the respondents on future changes in trade unionism was low (all the responses recorded self-rankings between very low and average understanding). This was particular obvious among members in Southern as they were more ordinary members responding to the questionnaires unlike in Sabah in which all the respondents were leaders. The mean scores among respondents in the Southern region were between 1.91 to 2.10 compared to 2.13 to 2.35 in Sabah which when tested was found to be statistically different<sup>19</sup>. The details of the responses indicating the level of understanding among trade union members, are shown in Figure 4.4.

<sup>18</sup>Seven of the 444 respondents who participated in the study did not indicate their status

<sup>19</sup>The difference is evidenced by the outcome of the P-value of 0.0



**Figure 4. 4 Understanding and awareness about TPPA by regions**



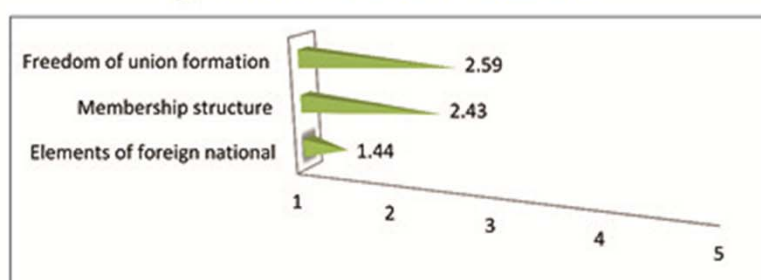
Trade Unions Readiness with regard to the implementation of TPPA. The study was also aimed to analyse the level of readiness among trade union members with regards to the changes brought about by TPPA specifically on the principles of freedom of association, one main element under the Labour Chapter. This element is related directly to the formation and structure of trade unions - the functions of which are the domain of the Department of Trade Union Affairs (JHEKS), under the Ministry of Human Resources. To analyse the readiness among trade union members in Malaysia on the execution of the Labour Chapter, specifically regarding trade unionism in Malaysia, the instruments used were developed according to three dimensions namely (i) elements of foreign nationals, (ii) membership structure; and (iii) freedom of union formation. These were translated into eight statements in the questionnaire. Table 4.3 presents the eight instruments which were used in the study to measure the three dimensions based on a five point Likert scale of 1=not ready at all, to 5=extremely ready.

**Table 4. 3 Question items on readiness with regard to the implementation of TPPA**

Elements of foreign nationals	Membership structure	Freedom of union formation
Foreigner to lead union	Retiree/Dismissed to become members	Greater freedom of association
Cultural influence by foreign leaders	Flexibility in membership	No industrial boundaries
	Multiple membership	No occupational boundaries

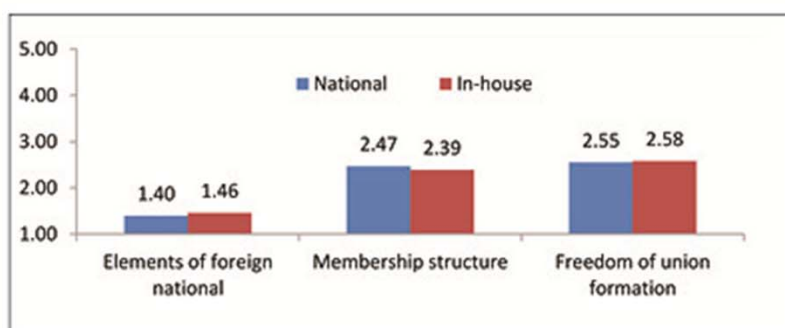
The results of the study revealed an interesting finding in which there seems to be a different level of readiness in the three dimensions shown in Figure 4.5. In terms of the influence of foreign nationals into the trade unions, such as the effect of culture and leadership, the level of readiness was almost not ready at all (mean score = 1.44). The readiness of trade union members to accept changes in membership structure was mainly between slightly ready and moderately ready (mean score=2.43). However, in terms of freedom of formation, the level of readiness was relatively higher with it approaching moderately ready (mean score = 2.59).

**Figure 4. 5 Dimension of Readiness**



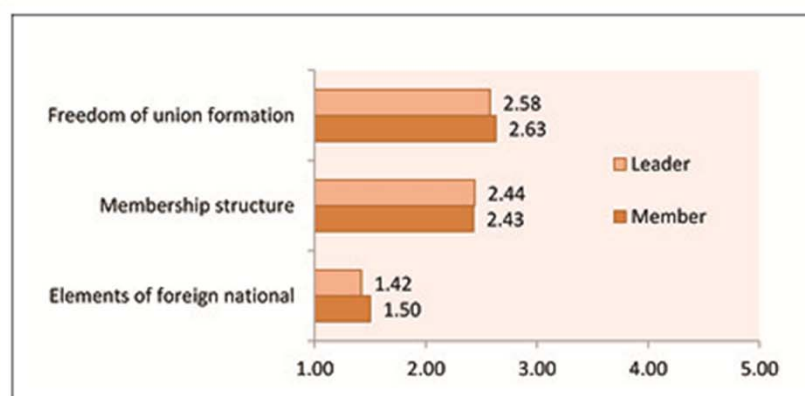
Further analysis of the data indicates no significant difference in responses between members from the in-house and national unions. The level of readiness is still relatively lower for members in both types of union in terms of their willingness to accept leadership by foreign workers as well as their readiness to accept changes in membership structure (Figure 4.6). As for the readiness to embrace freedom of union formation - particularly allowing for the establishment of general union (removal of industrial and occupational boundaries from the existing law) - their level of readiness was slightly higher (In-house = 2.58 and National = 2.55).

**Figure 4. 6 Dimension of Readiness based on Type of Unions**



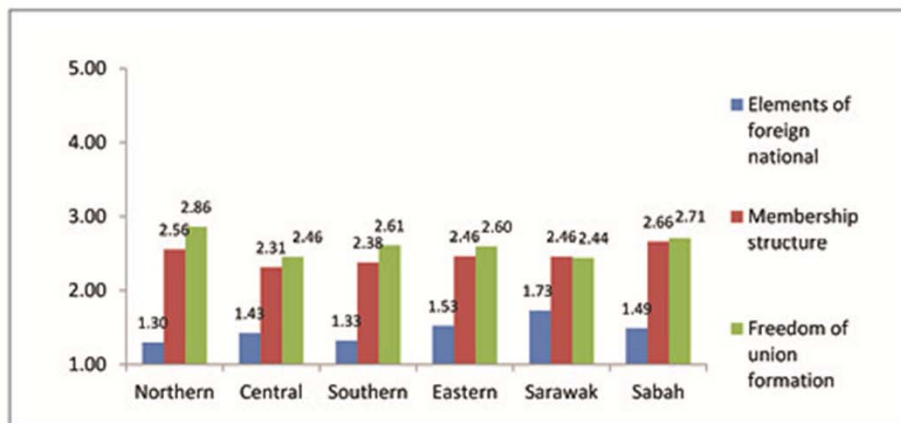
The study also found no significant differences of response between the leader and non-leader of the trade unions as to their level of readiness in the entire three dimensions as shown in Figure 4.7. Both are not willing to accept the trade union to be led by foreign workers but were relatively more receptive towards the establishment of general trade unions.

**Figure 4. 7 Dimension of Readiness based on Position in Trade Union**



The study, however, found that there were some variations in the responses towards readiness on TPPA in several regions on two dimensions, namely the acceptance to influences of foreign national and freedom of union formation<sup>20</sup>. As shown in Figure 4.8 the mean score was the highest among members in the northern region (mean=2.86) as to their acceptance to freedom in formation of the trade union. Surprisingly the region also registered the lowest level of readiness to accept the influence of foreigners into the trade union movement (mean score =1.30).

**Figure 4. 8 Dimension of Readiness based on Regions**



## Findings of the Focus Group Discussion with Employers

This analysis was based on 139 participants from the focus group discussions with employers in six locations across Malaysia. As the number of participants in most locations ranged from 16 to 30 for the focus group discussions, except for Sabah which had seven participants, it was necessary to split the respondents into smaller groups to ensure almost all of the respondents were able to provide their opinions with the facilitation of the consultants.

**Understanding on the Changes to Trade Unionism after TPPA.** The majority of employers were of the view that their trade unions were aware about the establishment of TPPA. In fact, a number of employers reported that their employees and trade unions had been talking about it for the past year. Nonetheless, a number of employers in the focus group agreed that they were generally having only a surface understanding of TPPA, and it transpired that most of them were unaware of the issues or the scope and details covered by the agreement. Some participants expressed their concerns that as TPPA knowledge among trade unions members is still unclear, they might interpret the issues wrongly. Other participants concurred, and noted that such situations would give rise to misunderstandings and thereby become a source of speculation. For example, one participant responded that; *“At the moment, the real information about TPPA is still vague as the employees have been relied on politicians, TV, radio and social media”*.

In addition, some of the employers raised a concern that it has become a sensational issue when it was used by some quarters for their political gain. Thus, TPPA implementation worries many parties, including the trade union's members, employees, employer as well as the government. Issues like leadership

<sup>20</sup>P-value of foreign national=0.222; Membership structure= 0.039 and Freedom of union formation =0.013



and membership of union seem to be crucial for our country to resolve in ensuring the effectiveness of implementing the TPPA in the country. Hence, there were many suggestions by employers calling for the authorities to organise more forums and open discussions, as well as talks or seminar on this issue, as the TPPA is important due to its effect of shifting the direction of the Malaysian trade unionism laws and practice.

The employers in the focus group in all the regions also shared a common line of thinking on the knock on effect as a result of the expansion of our country's involvement in world trade. The employers acknowledged that the TPPA would require adoption of certain international labour organisation's rules and regulations regarding greater freedom of association, changes in the treatment of foreign workers as well as some human rights issues. They therefore recognised that changes in the legal framework of the country would be proposed, especially to the labour laws. Besides, some employers highlighted that their employees were expecting the changes and were looking forward to them. The employers claimed that the trade unions would certainly notice that the TPPA gave more power and privileges to them. Indeed, the trade unions were already excited thinking that when TPPA is fully implemented, employees are entitled to the concept of freedom of association.

From the focus group discussions with the employers, it was learnt that the employees were equally aware of the possibility that there could be multiple unions in one company and within the same occupation or category. One employer in a focus group presented a possible situation in which trade union members may secure advantage to encroach into the management's role. As everyone has greater chances to form a union and subsequently be able to select some good executives to be their leaders, the focus groups were quite concerned regarding this matter.

*" They know that they can encroach into management role, anybody can join the union and they can pick some of good executives to be their leaders. And then they can also have a say who should be, we think that this guy should be leading this department and that guy is not fit to lead the department.*

*" But they are also worried in the sense that if the Union can be not only one or two Union, anybody can form a Union. And even people from outside also, foreigners can also whereby after three years they can run for office in the Union.*

*" Basically TPPA will be open to the world trade, the international labour organisation certain rules and regulations where they will be freedom. Anyone can form a Union even they are supervisor and manager can form Union.*

Leadership and Cultural Influence. Meanwhile, another employer from the focus group was concerned that these changes would create some chaos. The employer stated that if the current regulation of not prohibiting some people, (foreign workers and employees of political party), to hold a leadership position in the trade union is lifted, it may lead towards the changes in the trade unionism culture. Thus, from the employers' point of view, changes in the trade unions' structure may conflict with the employers business and companies' goals. However, some of the employers' believed that with TPPA, many employees may decide to join unions, and employers would prefer to choose outstanding employees to lead the union rather than a 'disgruntled egoist'.

*" Chaos. Imagine politician can lead the Union. What will happen? Anybody can lead the whole organisation or unit right. At the end of the day it will be total chaos unless the union is being prepared for it because right now the awareness is basically zero. None of us know what is going to happen.*

*" Upon the topic of leadership, I think this is very real. And even though at the moment with the TPPA not coming yet, we are happy. The Unions are not active. But with TPPA, you have no choice, might as well good strategy by the employers to choose outstanding employees to lead the Union rather than disgruntled egoist.*

Membership Structure and Freedom of Union Formation. Another crucial issue was that employers felt worried about the full freedom to join union. From the lens of employers, they foresee a worst case scenario, particularly when non-locals are allowed to guide the unions. Some of the employers were extremely doubtful when talking about this as can be seen in the following remarks;

*" Once TPPA is coming it opens to foreigner, worried 'kalau satu kilang' [if the factory have] majority foreigner, [having them] they as member, once AGM [decide, the] democracy [will have] possibility [that] the president union the committee all are foreigners.*

He also stressed about the importance of trustworthiness, and responsibility in the union leadership, to avoid any financial wrongdoings especially when foreign worker is appointed as a leader:

*" 'Kalau cukup tahun dia balik' [once contract ends, they leave] 'kalau dia mismanagement dia punya union kewangan' [if he mismanages the union] [name of person], 'then dia tinggal' [he will leave].*

Another employer stated;

*" And also I think some of the foreign workers do come from countries where perhaps Union is a bit more extreme. From Bangladesh, those Indian subcontinents, Unions are relatively quite vocal people out there. They will not hesitate to be using the same type of ideas over here as well".*

Moreover, according to the employers, the foreign workers seem interested to know more about TPPA especially from social media as they were well informed that they will have more benefits to come even without such freedom (as imposed in the current law) foreign workers have been very demanding as to their employment rights. Therefore, with the TPPA, things were expected to be even more critical for the employers.

Some employers, however, were not worried, especially the bigger companies as majority of their union members are local Malaysians. Based on the employers' comments, the in-house union was found to be very protective and insistent that only locals be employed in non-technical and technical capacity in their company it only being the higher positions, such as management were some expatriates were appointed.

*" In terms of the TPPA, I would say more than 99 percent members, they are locals. They are local Malaysians. I think we do not foresee any foreigners coming to work with [name of firm] as far as the technical and non-technical staff because the in-house are very protective. They still want locals to be employed in non-technical and technical capacity. Because in [name of firm] we only hire expats or foreigners for higher position, manager and above.*



Uncertain Effects of the TPPA. In general, the employers, did understand that the government was also mindful and careful about the implementation of TPPA, and shared their concerns about adopting ILO standards as otherwise action would have already been taken in that direction. They also emphasised on the important roles that should be played not only by unions but by other parties including the government. Such views are apparent in the following response:-

*" Generally if you are looking at it in the Malaysian context, the question is readiness, globalisation, tolerance and all that. But in the side later you see, from the US it is all about us, changing and complying to the ILO declaration and convention. However we understand that the government also mindful and careful of going to that. Otherwise many years ago they are already ratified some of the conventions So with this TPPA coming in, then, I think many people roles not only Union, but even the authorities and the government roles have to also be relooked at on how to ensure how it works to our advantage or not otherwise.*

The general consensus emerging from the employers' focus groups was that many parties currently appeared to be unclear about the TPPA and were just speculating and making assumptions. This led them to belief that nothing much could be done except to leave it to the government to solve, thus the laws that will need to be amended would have to be studied properly by the authorities. They felt that whatever outside forces that under the agreement would be allowed in and had the potential to influence the union here, would be controlled as far as possible through the domestic legislative changes and guidelines for practice. The following participant's quote expresses the urgent need for such guidelines from the government to end the unhelpful speculation;

*" I think the sentiment on the ground is all in all is - be it from employer, be it from employees or union side -is to avoid this waiting game from happening. When the relevant stakeholders side are working towards implementing the TPPA, in my opinion have to start to issue some guidelines. Not only to the union but also to the employers as a whole on how you implement TPPA as well as labours legislations are concerned. Without these guidelines, you are keeping all the stakeholders in the dark. How to do, how to approach it, how to renew unions now. On the union side, how they are going to conduct their business now for example. Because without that, we are allowing this waiting game to continue.*

Despite joining the TPPA signalling Malaysia's readiness to adhere to high standards in trade and investment treaties, there is always an element of uncertainty. The majority of organisations, including unions are not yet ready for these changes. As the economy is going to be more competitive, many employers speculate that other smaller businesses are going to cease operation as they are unable to compete with bigger firms.

*" Unless we are being prepared for it then maybe the acceptance would be a bit different. Because now we do not know so now we are all just speculating and make assumption. My workers they don't know anything which is good actually. Everyone is going to be unionised. I agree with others, smaller business who cannot compete with the big boys, there are going to close down.*



## Findings of In-Depth Interviews

The two in-depth interviews conducted with prominent leaders found three important themes. These are the effect of TPPA on the economy, freedom of association and changes in trade unions membership composition.

The employers' representative highlighted the possible negative effect of TPPA on the economy despite acknowledging some of its benefits. He does not accept total freedom of association especially allowing leadership of a trade union to be held by foreigners. According to him having foreign leaders in the trade union may affect the industry competitiveness (Box 4A & 4B)

### Box 4A: TPPA and Economy Detrimental

*"You may have more trading partners, you may have trade in Argentina or trade with other countries where you have not been trading before but on the other hand your economy may suffer also with that TPPA".*

*(Official from employers' association)*

### Box 4B: TPPA, Freedom of Association and Foreigner's Leadership

*"I don't like that TPPA with the freedom of association, to a certain extent that the foreigners can control Union, and Union can be ruled by the foreigners. For example in plantation industry, rubber estates you know about I think 90% are foreign workers in plantation, in estate. So the Trade Union can be controlled by the foreigner. And then they can have strike every day. Then what is estate doing there? No productivity. So it will affect the economy of the country. It will definitely affect the economy of the country. Alright. So with TPPA, employers are very concerned. One thing you cannot hold the passport of the foreign workers. You know in estate now, they are holding the passport. Once they give them the passport, many of them will disappear. They will go elsewhere, don't know where to look for job."*

*"And these foreigners, are they concerned about Malaysia? Are they have National spirit of Malaysia or they are more concerned of their own interest? Or are they concerned of getting more money and send back to their country. I think they are doing that. Working hard, now by having a Union where they control, they may not be working very hard. They may be working hard for Union, but not for the company. So this is no good."*

*(Official from employers' association)*

The in depth-interview also brought up the issue of openness in the structure of a trade union, for example allowing for multiple unions in one organisation. He felt that, permitting multiple unions in one organisation may in fact weaken the trade unions movement (Box 4C).

### Box 4C: Multiple Unions

*"Multiple unions according to hierarchy is very valid. Because if you are a group of workers, in conflict apparently in the sense you are being done up like the old Malayan Estate Staff Unions. And then you have the National Union for Plantation Workers then you have the AMPIE. AMPIE is the All Malayan Planting Industry Executive (AMPIE) Union. I think the Union is very weak."*

*(Leader of a national trade union)*

## Summary

As a result of the globalisation process, content and coverage of free trade agreements (FTAs) have been further expanded. They do not now only include traditional commercial matters - such as reduction of tariff barriers (tariffs, quota, and customs) - but also include labour and environment issues which are not directly related to traditional trade. Being talked up as the 21st century trade agreement, the Trans-Pacific Partnership Agreement (TPPA) includes the strongest provisions on labour in history. TPPA envisages strong worker protection, requiring all TPPA members to meet core labour standards as set out in the International Labour Organization (ILO) regulations. Chapter 19 (Labour) of the TPPA (the Labour Chapter) specifically requires TPPA members (all of which are ILO members) to adopt and maintain internationally recognised labour rights including; the freedom of association; the right to collective bargaining; the abolition of forced labour; the prohibition of child labour; and the elimination of discrimination in employment. Specifically, Chapter 19 of the TPPA known as the Labour Chapter requires Malaysia to reform its labour laws and policies in tandem with the international standard particularly on trade unionism which is one of the subject interests of the current study.

In addition to the main TPPA, the US separately negotiated a bilateral side agreement which is known as the LCP with Malaysia, Vietnam, and Brunei Darussalam. This plan provides a significant step towards compliance with the ILO requirements, demanding the implementation of specific legal and regulatory reforms in their relevant domestic laws prior to allowing those countries officially to enjoy TPP trade benefits. With the signing of the Trans-Pacific Partnership Agreement (TPPA), the Government will have to "liberalise" the Trade Unions Act, Industrial Relations Act and the Employment Act for improving the public perception of labour rights in Malaysia's industries. This could in turn attract greater business and investment opportunities for Malaysia's industries.

In order to identify the understanding and readiness of trade union on the implementation of the TPPA, the survey among the union members and focus group discussion among the employers was conducted across six regions as well as in-depth interviews. The findings show that union members across all the regions surveyed generally have low understanding, with mean scores between 1.91 to 2.35 regardless of their position in unions (members, leaders and non-leaders) and type of unions. In addition, the mean scores indicated all three dimensions of readiness were very low for overall union workers regardless of their region, category of occupation or education level. The mean scores for the three dimensions were 1.42 for elements of foreign nationals, 2.25 for membership structure; and 2.73 for freedom of union formation. Although, there were some variations in the responses towards readiness on TPPA in several regions; for example, the mean score was the highest among members in the northern region (mean=2.86) for acceptance of freedom in formation of the trade unions, while the southern region registered the lowest level of readiness to accept the influence of foreigners into the trade union movement (mean score =1.30). Overall the respondents were 'not ready indeed' or 'not ready at all' to accept foreign workers to be part of their unions' leadership. Similarly to the employers, they have had low understanding about the TPPA and shared the same feelings towards readiness especially regarding to the elements of foreign nationals. Clearly, findings from the survey as well as focus group discussion for employers emphasised the importance of guidelines and clear information about the TPPA not only by unions but by other parties including the government for avoiding speculations and assumptions.



# CHAPTER FIVE

## BENCHMARKING: THE WAY FORWARD

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This chapter is divided into two main sections. The first section highlights the international standards with regard to trade unions and labour movements that are currently in place. These standards were set as guidelines by the International Labour Organisation (ILO) for worldwide reference. Meanwhile, the second section puts forth a series of discourses on each of the 11 countries with specific focus on their trade union systems and practices as well as political and economic environments.

### **ILO – The Establishment of International Standards**

The establishment of the international standard of labour legislation, including on trade unions laws and practices, was developed by the International Labour Organisation (ILO), a United Nation agency. This is the only international institution that operates based on the tripartite concept of bringing together workers, employees and governments. Currently 187 countries are members including Malaysia. It sets the international standard on human and labour rights for the purpose of promoting for decent work agenda for all member countries to follow in order to achieve social justice globally (ILO, 2016). This is done through the establishment of Conventions and Recommendations. Conventions are legally binding on countries that have ratified them, whilst the Recommendations, are supporting documents that clarify how these Conventions can be implemented. In the context of trade unions laws and practices, two of the most important conventions are: (i) Freedom of Association and Protection of the Right to Organise Convention, 1948 (Convention 87) and (ii) Right to Organise and Collective Bargaining Convention, 1949 (Convention 98).

The objective of the ILO Convention 87 is to encourage the promotion of the principle of freedom of association in which employees or employers are free to choose and form trade unions or organisation of their choice. For the trade unions, it provides a platform for the improvement of their members' working conditions and enhancement of employment rights at the workplace. Malaysia, along with many other countries such as the United States, has not ratified this convention but has indeed incorporated some of the elements into the existing law.

Meanwhile, the ILO Convention 98 is an instrument that sets standards against anti-union discrimination or any interference in the establishment and running of a trade union. It also promotes collective bargaining through the use of negotiation between parties with the objective of reaching a collective agreement. Such collective agreement, once reached, becomes a legal and binding contract of employment that regulates the relationship between the employees or trade unions members and their employers. Malaysia has ratified this convention on 5 June 1961 and it is currently still in force. Hence, the law in the country has incorporated fully this convention including the preventions of 'union busting' as well as the provisions on collective bargaining and collective agreement.

The ratification of ILO Conventions is not mandatory for any countries including the members' state. However, they are expected to promote the implementation of the conventions. Table 5.1 depicts the status of ratification of these conventions by the 11 countries benchmarked.



**Table 5. 1 Laws That Governs Trade Unions in Selected Countries**

Country	Main Law that Governs Trade Union Movement	Ratification of	
		Convention 87	Convention 98
Malaysia	Trade Unions Act 1959	x	√
	Industrial Relations Act 1967		
	Employment Act 1955		
	Labour Ordinances in the State of Sabah and Sarawak		
Australia	Fair Work (Registered Organisations) Act 2009	√	√
Japan	Labor Union Act 1945 (Amended by Act No. 87 of 2005)	√	√
South Korea	Trade Union and Labour Relations Adjustment Act 1997	√	√
Indonesia	Trade Union Act No 21 of 2000 (Undang-Undang Serikat Pekerja No 21 Tahun 2000)	√	√
India	Trade Unions Act 1926 (Amendment 2001)	x	x
Singapore	The Trade Unions Act 2004	x	√
Sweden	Employment (Co-Determination in the Workplace) Act (1976 as amended until 2007)	√	√
Germany	Collective labour law.	√	√
United Kingdom	Trade Union and Labour Relations (Consolidation) Act 1992	√	√
United States	National Labor Relations Act, (NLRA)	x	x

Source: ILO, 2016, Ministry of Human Resources, 2016

## Approaches to Benchmarking

One of the main goals of this study is to benchmark the Malaysian trade union system and practices with that of other countries. Several criteria were identified and used to develop a framework for benchmarking purposes. A total of 11 countries were considered in this benchmarking exercise, which include Malaysia, Indonesia, Singapore, India, South Korea, Japan, Australia, Germany, Sweden, United Kingdom and the United States of America. For the purpose of comparison, these countries were selected based on some commonalities and differences with Malaysia in terms of their political and economic systems as well as the basic elements of their trade union systems. These two main components serve as pillars and are crucial in shaping the trade union system and practices in these countries.

Taking mainly a comparative approach and grouping the countries into three main geographical regions (i.e. Asia Pacific, Europe, and America), this section is dedicated to discuss each country's political and economic background, trade union systems and practices. Specifically, the discussion starts with a brief introduction to the current political and economic system as well as the present state of economic development. It is then followed by analyses of governance and practices of trade unions; legal framework

of trade unionism, trade unions and politics; trade union philosophy, structure and organisation, and lastly roles, functions and services of trade unions. The main features and unique characteristics of trade union system and practices of each country are highlighted and to a certain extent compared to that of Malaysia wherever possible. At the end of this chapter, all 11 countries benchmarked are relatively positioned in two two-dimensional quadrants with respect to their respective current economic development, trade unions' political affiliation, trade union structure and organisation as well as their services to members.

**Asia Pacific.** There are seven countries from the Asia Pacific region benchmarked. The countries include Malaysia, Singapore, South Korea, Indonesia, India, Japan and Australia. Each of these countries is presented as follow.

**MALAYSIA.** The political system of Malaysia originates from the British democratic constitutional monarchy model in which the Yang di-Pertuan Agong is the head of the state with the Prime Minister being the head of the government. Within such a system the judiciary operates independently of the executive, on the principle of separation of powers. Due to its colonial heritage early legislation was influenced by British laws, such as the Trade Unions Act 1959 and the Industrial Relations Act 1967, and to this day British Case Law, can often be an accepted reference point. As a federation of 13 states, including the two regions of Sabah and Sarawak, Malaysia's total population is estimated at 31.7 million in 2016 with an official unemployment rate of 3.4 percent while the labour force participation rate is stated as 67.7 percent as at August 2016 (Department of Statistics, 2016).

The main feature of the economic system is it is a mixed-economy with a market oriented economy with pro-business Government policies to determine, as far as possible, the direction of the economy. In 2015, the real GDP was USD259.93 billion (Bank Negara, 2016) and in the first half of 2016 the GDP growth rate stood at 4.1 percent (Department of Statistics, 2016). The major economic and employment activities of the country are in the manufacturing and services sector which in 2015 registered 23 percent and 53.5 percent of GDP respectively. While the two sectors are the main drivers of the country's GDP, the services sector, however, is expected to dominate the economy by the year 2020 exceeding 58 percent and hence, is expected to create modern and high paying jobs (Services Blue Print, EPU, 2015). This would result in significant changes to the employment structure which in turn influences the industrial and employment relations of the country.

The Malaysian industrial relations systems is mainly governed under the federal legislation covering all states in the country with minor differences on the application of several provision of the law as well as non-application of certain Acts in the state of Sabah and Sarawak. As to the governance of trade unions, the three main pieces of legislation namely the Trade Unions Act 1959, the Industrial Relations Act 1967 and the Employment Act 1955 are considered federal Acts. However, the states of Sabah and Sarawak have their own respective Labour Ordinances in place of the Employment Act 1955 which is only applicable in the Peninsular Malaysia. However, Trade Unions Act 1959 is applicable throughout the nation to govern the trade unions' formations, roles and functions. Under the Act, the Director General of Trade Unions has the authority in the supervision, direction and control of all matters relating to the trade unions throughout Malaysia. The establishment of the trade union however, is subject to geographical restriction as stipulated under Section 2 of the Act which provides for territorial restrictions. In Malaysia, the national union are formed within a region either within Peninsular Malaysia, Sabah or Sarawak. In addition to these three Acts, there also exists a Code of Conduct for Industrial Harmony that provides guidelines for the trade unions to operate as well as in maintaining good relationship with the employer



and government. The followings are areas or scope in which these Acts govern the operations of trade unions and the coverage of the Code of Conduct of Industrial Harmony in Malaysia (Table 5.2).

**Table 5. 2 The Legal Framework of Malaysian Trade Unions**

Act	Sections of the Act	Areas/Scope	Applications
<b>Trade Unions Act 1959</b>	All Sections (Sections 1 to 79)	Registration, Cancellation, and Suspension Rights and liabilities of trade unions Trade union internal disputes Maintenance of trade unions property Uses of funds and maintenance of accounts Formation of the federation of trade unions Affiliation with consultative bodies Trade Union Regulations 1959	Both private and public sector trade unions
<b>Industrial Relations Act 1967</b>	All Sections (Section 1 to 63)	Protection of Rights of Workmen and Employers and Their Trade Unions Recognition and Scope of Representation of Trade Unions Collective Bargaining and Collective Agreements Conciliation of disputes Representations on Dismissals Access to Industrial Court Trade Disputes, Strikes and Lock-Outs	Sections 3 to 20 are not applicable to public sector trade unions.
<b>Employment Act 1955 / Labour Ordinance Sabah Labour Ordinance Sarawak</b>	Section 8, Section 24 Section 9C, Section 113 Section 10C, Section 114	Employers shall not refrain employees to join or form trade union Contracts of service not to restrict rights of employees to join, participate in or organize trade unions Deductions in respect of the payments to a registered trade union Rights of Trade Unions to represent members at the Labour Court	Not applicable to public sector trade union
<b>Code of Conduct for Industrial Harmony</b>	-	Areas of cooperation between trade unions and employers Responsibilities and roles of trade union officials Guidelines on Collective bargaining Procedure for resolving collective disputes Has been referred to by the Industrial Court when making its decisions.	Voluntary instruments for adoption by both parties.

Source: Adapted from the Trade Unions Act 1959, Industrial Relations Act 1967, Employment Act 1955 and Labour Ordinance (Sabah & Sarawak) and Code of Conduct for Industrial Harmony.

The separation of trade unions from the Malaysian politic began in 1946 with the implementation of the Trade Unions Enactment 1940 which required all trade unions to register their formation with the then newly established Department of Trade Unions. The Department was established to monitor and govern the trade unions operations in the then Malay States. The move to establish the Department was due to the high incidence of strikes as well as the influence of the communist party within the trade unions movement in the 1940s which threatened the industrial harmony of the Malay state (Sarimin et al., 2015). This marked the beginning of the government's role in monitoring the trade union movement and the exclusion of trade unions from elements of politic, a stance which in 1959 was incorporated



into the Trade Unions Act 1959. This Act, as mentioned earlier, prohibits a trade union from affiliating or associating with any political party in the country. Furthermore, office bearers or employees of a trade union cannot be appointed if they are employed or hold any position in any political party.

The main philosophy of trade unionism in Malaysia is to represent the interests and voices of workers in the tripartite industrial relations system. At the same time, trade unions are expected to uphold the spirit of establishing and maintaining industrial harmony. A trade union can be formed with a minimum of seven members subject to various conditions and rules. Specifically, they can only be formed according to establishment, trade, occupation or industry as well as being based in a geographical region leading to a so called fragmented trade unionism. These conditions and rules are expressly found in Section 2 of the Trade Unions Act 1959 as discussed in Chapter 1 (see Section 1.3 of Chapter 1).

Because of such conditions and rules set under this Act, employees association including the Malaysian Trades Union Congress (MTUC) is not considered as a trade union under the Act, although their roles to a certain extent are similar to the roles of a trade union. Hence, MTUC is governed under the Registrar of Societies (ROS), yet remain as the umbrella body representing trade unions in Malaysia. The public sector (i.e., Congress of Unions of Employees in the Public and Civil Services, CUEPACS) is governed under the Trade Union Act 1959. All the registered trade unions under the Act are allowed to affiliate with them. As of December 2015, it is estimated that a total of 219 private and 105 public sectors trade unions were affiliated with MTUC and CUEPACS respectively (Department of Trade Unions, 2016). Trade unions in Malaysia are also allowed to affiliate with the international consultative body such as the International Trade Union Confederation (ITUC), World Federation of Trade Unions (WFTU) and World Organization of Workers (WOW). As of 2015, a total of 48 trade unions in Malaysia have affiliated with these consultative bodies (Department of Trade Unions, 2016). However, section 76A of the Trade Unions Act 1959 requires the prior permission in writing from the Director General of Trade Unions before affiliating with these bodies.

Like their counterparts in other countries, trade unions in Malaysia act as representatives to their respective members. They represent their members in collective bargaining processes, industrial disputes as well as industrial actions. The roles of trade unions in Malaysia are clearly spelled out in Section 2 of the Trade Unions Act 1959 as discussed in Chapter 1. Generally, the roles and functions of the trade unions in Malaysia are similar to their counterparts in other countries. However, in Malaysia differences in roles and function exist between the public and the private sectors trade unions due to the non-application of certain provisions of the Acts governing trade unions particularly the provisions contained in the Industrial Relations Act 1967.

**SINGAPORE.** Singapore is a democratic republic with the President as the head of the country and the Prime Minister, the head of government. Despite being a country with a multi-party system, Singapore politics have long been dominated by the People's Action Party (PAP) since 1959. This party has also consistently rejected the liberal democratic values inherited from Britain including many elements of the English Common Law, as the party believes that there should not be a 'one-size-fits-all' solution to a democracy. There has been a direct political involvement of trade unions in Singapore. Industrial relations once reflected as having the symbiotic relationship between the labour movement and the PAP which rooted in a political history of confrontation that evolved into consensus building. The National Trade Union Congress (NTUC), a leading trade union organisation, has a formal relationship with the People's Action Party (PAP) on a ground of common ideology. The NTUC has adopted a pragmatic approach by working together with the government and employers to help contribute to nation building

and economic progress. Hence, trade union leaders are members of major statutory boards and are actively involved in state policymaking, allowing them to utilise negotiation, conciliation and arbitration, thus eradicating strikes and other industrial action as a form of settling labour disputes.

In terms of economic development, since independence in 1965, the Singapore economy has experienced rapid economic growth. Singapore's strong economic performance reflects the success of its open and outward-oriented development strategy. Currently, Singapore is classified as a high-income nation and has a highly developed trade-oriented market economy. The nominal GDP was USD307.9 billion in 2015 in which real GDP per capita was also the highest in the region at USD82,762. Moreover, the inflation was less than 2 percent and unemployment rate was low at 3 percent in 2015. Singapore's economy has also been ranked as the most open in the world, seventh least corrupt and most pro-business with low tax rates. One of the contributing factors to Singapore's economic achievement is a set of sound macroeconomic policies aimed at maintaining conducive environment for long-term investment in the economy. The main source of revenue for the economy comes from trade, particularly exporting electronics and chemicals, and providing services, especially in wealth management where Singapore has taken advantage of its position to become a regional hub.

Singapore adopts a tripartism model of industrial relations system that offers a competitive advantage for the country by promoting economic competitiveness, harmonious labour management relations and the overall progress of the nation. Some of the key features of the trade unionism spirit in Singapore are; promoting good industrial relations between workers and employers; improving working conditions and improving productivity for the mutual benefit of workers, employers and the country.

The trade unions' role and structure also had undergone extensive changes. Trade union has played a remarkable role since the 1970s ranging from being agent of social enterprises, providing amenities and conducting skills upgrading initiatives in order to promote the welfare of its members. These include the establishment of non-profit organisation like cooperatives which is aimed to provide affordable goods and services for workers like NTUC INCOME (Insurance Co-operative Commonwealth Enterprise Limited) and the transport cooperative NTUC COMFORT (Co-operative Commonwealth for Transport Limited) and the current supermarket cum convenience store chain, NTUC Fair Price (initially known as NTUC Welcome) which currently has a network of some 126 supermarkets. In particular, the transport cooperative organisation provides the legal employment to reduce the number of pirate taxi drivers prevalent at the time, which has subsequently evolved to become a full-fledged land transport company with international operations. Additionally, the NTUC's current network of over 10 social enterprises also provides a range of other goods and services at affordable prices in various aspects including healthcare (NTUC Health), childcare and education (NTUC First Campus), cooked food (NTUC Food fare), private-property development (NTUC Choice Homes) and recreation (NTUC Club).

Further, for meeting the workers recreational needs, a range of amenities was also established, in the 1980s. For example, in the early of 1980s, the first multipurpose NTUC workers' centre was opened in Queenstown and followed by the second centre in Jurong, while at the end of 1986, the NTUC Club was set up as the NTUC's leisure and entertainment arm, the NTUC Pasir Ris Resort was officially opened on 29 October 1988, which was later been expanded to become the present Downtown East, which comprises a resort, water park and entertainment centre. Other recreational venues operated by the NTUC Club include Marina Bay Golf Course, Orchid Bowl and explorer kid (indoor children's playground).



The distinct role of the Singapore's trade union (the NTUC) is observable in its efforts to upgrade the programmes and institutes particularly for enhancing the employability of workers. In 1982, the NTUC launched the Basic Education for Skills Training (BEST) programme in which their target was the workers without secondary education and the Skills Redevelopment Programme to help workers transit to new jobs and new sectors. More importantly, on 1 September 1990, the NTUC established the labour college which is known as the Singapore Institute of Labour Studies (renamed Ong Teng Cheong Labour Leadership Institute in 2002). However, it was officially launched on 1 February 2008, the e2i (Employment and Employability Institute) provides assistance to job seekers through training and job placements.

While in the 1980s there were restructuring in the trade unions along industry lines to allow unions to better identify with workers' specific needs and thus served to attract more workers to join the unions. As a result, the omnibus unions; the Singapore Industrial Labour Organisation (SILO) and Pioneer Industries Employees' Union (PIEU) were divided along industry lines and further divided into in-house unions to facilitate better labour-management relations and promote company loyalty. Both were restructured into nine industry unions and four in-house unions (in-house union membership comprises workers in a particular company).

Specifically, in order to enable members to remain in the labour movement during a period of unemployment or after moving from a unionised to a non-unionised organisation, the NTUC also established the General Branch (GB) in 1992. With the formation of GB as an alternative to the industry unions and in-house unions, new members may also join the NTUC any time to enjoy membership privileges such as NTUC FairPrice rebates and access to NTUC Club facilities. Unlike the industry and in-house unions, the GB members are not allowed to represent in wage negotiations and workplace issues. Just like other countries, the union memberships witnessing the decline in their density. Increasing emphasis on developing white-collar, capital-intensive, and service-oriented industries was partly responsible for the union membership decline. However, the unions were countering the decline by offering attractive packages to bring in new members.

The main legislation governing trade unions in Singapore is the Trade Unions Act 2004 which is administered by the Registry of Trade Unions. The primary role of this registry is to ensure the administration and registration of responsible trade unions as well as monitoring, advisory, enforcement and engagement efforts. While Industrial Arbitration Court (IAC) (eg. Arbitration) the Commissioner for Labour is important for the Arbitration, the Labour Relations and Workplaces Division (LRWD) plays the role in advisory, conciliation and adjudication services for strengthening tripartite co-operation between the government, unions and employers. More importantly the Trade Unions Act 2004 and the Trade Unions Regulations Trade Disputes Act (Cap 331), Part III of the Criminal Law (Temporary Provisions) Act (Cap 67) and Singapore Labour Foundation Act (Cap 302) and its regulations regulate the activities of trade unions, including the proper management of union affairs, safe custody of funds and the free election of union officers. The Trade Unions Act 2004 specifies the process whereby workers can form, register and deregister a trade union. A minimum requirement to form a trade union is at least seven employees aged 21 years and above. Once formed, it has to be registered with the Registry of Trade Unions within a month of its formation.

The Trade Unions Act 2004 guarantees trade unions immunity from criminal proceedings for conspiracy and civil proceedings for damages in certain cases. Such protection is only accorded to a trade union that is registered under the Act. Based on the Act the role and objectives of trade unions are: to promote good industrial relations between workers and employers; improve the employment conditions of workers and

enhance their economic and social status; and achieve productivity increases for the benefit of workers, employers and the economy of Singapore (Neo and Thiagarajan, 2006).

**INDONESIA.** Indonesia is a republic with a presidential system. In general, the Indonesian political system consists of three branches, namely executive, legislative and judicial branches. The Indonesian electorate through presidential elections chooses both the president and vice president. Indonesia is classified as a lower middle-income country with a mixed economic system. The country is the largest economy in Southeast Asia with a real GDP of USD861.9 billion in 2015. In the same year, the GDP per capita was USD3,834.06 and the unemployment rate was 6.2 percent. Moreover, in 2016, the labour force participation rate is 68.06 percent. The economic performance as well as labour movement in Indonesia has been influenced by its political climate.

After the declaration of independence in 1945, the formation of trade union in Indonesia has been affected by a political orientation (Beers 2013). Since then, trade unions have become increasingly active in Indonesia, but, the major political divisions and civil conflicts in the early 1960's had a major impact on their movement. This resulted in the abolishment of all political linkages between components of the radical labour groups and the Communist Party (PKI). In the final decade of the New Order regime, Indonesian labour activists turned to international organisations in challenging the state-controlled labour regime (Beers, 2013). The situation was compounded as the political context has become more open and international organisations have continued to play an important role in the labour movement. In some regions there have been efforts to expand the alliance's activities for political purposes, such as in Serang, Banten province (Tjandra, 2010; Cahyono, 2010), where the alliance called for the abolition of anti-labour policies in the regions. This situation reflects that the Indonesian labour movement has moved far beyond the limitation and oppression of the New Order that ended in 1998.

The era after the New Order marked the new development of labour legislation. As a result, substantial pieces of legislation were introduced such as the Presidential Decree No. 83/1998 on Freedom of Association, Law No 20/2000 on Trade Union, Law No.13/2003 on Manpower and Law No 2/2004 on Employee Dispute Settlement. In particular, the Law No 20/2000 on trade union, named the Trade Union Act No 21 of 2000 (Undang-undang Serikat Pekerja No 21 Tahun 2000), gave effect to Indonesia's obligations following ratification of ILO Convention No. 87 on Freedom of Association and the Protection of the Right to Organise as it replaced various government regulations on the registration of employees' organisations (Tjandra, 2016).

The Trade Union Act No 21 of 2000 stipulates the right of workers to establish and join trade unions. Hence, trade unions are able to function in terms of protecting, defending and improving the welfare of workers and their families, including protecting them against discrimination for being a union member. According to this Act, the functions of trade unions include the development of collective agreements; settlement of industrial disputes; representation of workers in councils and institutes that deal with labour issues; as well as upholding the rights and interests of their members. In addition, the Act also provides protection of the trade union officials who may be dismissed due to 'anti-union conduct' of the employer. Furthermore, becoming member in trade union provide other various membership services such as education and training, legal aid, service cooperative, service rebates (ticket holidays, hotels, restaurants, loans to members, pension services and welfare like death benefits and retirement financial benefits (Indah Budiarti, 2011).

The Act also stipulates that the trade unions are required to comply with the Indonesian Constitution, Pancasila (see Article. 2, Hubungan Industri Pancasila (HIP). The principle of HIP has been incorporated



into the Minister of Manpower Decree No. Kep: 645/MEN/1985, which states that trade dispute between employees and management, is best served through consultation and consensus (ILO, 2002). The enforcement of this Act is under the jurisdiction of the Ministry of Manpower and Transmigration where the Director General, Promotion of Industrial Relations and Labour Inspection Division has the authority to register, supervise, direct and control all matters relating to the trade unions in Indonesia.

Trade Unions in Indonesia are formed based on a single company or from different companies. However, the Act allows the existence of multiple trade unions within the same establishment. The formation of a trade union requires a minimum of ten workers in which they appoint officers through a meeting to develop articles of association and by-laws. The membership is open to all workers including those in the managerial or non-managerial positions. However, those who work in the managerial capacity cannot be elected as officers of the trade union. Once formed, the trade unions are required to inform in writing about their establishment to the local government agencies responsible for manpower affairs, as designated by the Ministry of Manpower and Transmigration. The formation of a trade union federation requires a minimum of five trade unions joining together to establish a federation. In order for these federations to establish a confederation, a minimum of three federations is required. Confederations are based on business sector, type of jobs or any other forms for the interest of the workers. Trade unions in Indonesia are actively involved in political activities including forming their own political parties. For example, Federasi Serikat Pekerja Metal Indonesia (FSPMI) has expressed interest to form its own political party in 2019 (Solidaritas.net, 2015). The aim of this kind of political influence by trade unions is to have their representatives in the national congress as this would provide platform on protecting workers' rights in the corridor of the power (Brown, 2014) in order to gain strength to bargain for higher wages and better working conditions.

**INDIA.** India is a federal republic country that has adopted the British constitutional system with three distinct powers of executive, judiciary and parliament headed by the Prime Minister whose power is derived from the Constitution. Its economy operates on a market-based system. Despite being the world's fastest growing economies with the GDP growth rate of 7.6 percent in 2015, India is classified as a lower middle-income country in terms of economic performance (The World Bank, 2016). In the same year, the real GDP was USD2.04 trillion while the inflation rate was estimated at 5.88 percent (Inflation EU, 2016).

Before the Government's liberalization policy of 1991, trade unions in India gained privileges over their political and judicial connections rather than by market forces. However, with the liberalization policy, the influence of trade unions in political and governance of the state and federation through political parties still can be seen, but seems decreasing over the years. The relationships between trade unions and politics can be classified into three main groups: dependent unions, semi-independent unions, and independent unions. Dependent unions are the unions that are completely dominated by the political parties. This type of trade unions accepts the leadership of their parent political parties and function as labour wings of the parties. While semi-independent unions hold the functions within the sphere of influence of the political parties. These unions lean heavily on the parties in terms of guidance and other important matters. The independent unions, on the other hand, maintain close relationships with political parties while keeping their freedom through mutual understanding and acceptance of non-interference.

Trade unions matters in India are under the custody of the Ministry of Labour and Employment which among others enforces the Trade Unions Act 1926 (Amendment 2001). This Act establishes and authorises the Registrar of Trade Union to register trade unions under their respective state's Labour Departments. These authorities deal with the registration of the unions as well as to enforce the Trade

Union Acts 1926 in their respective states. In terms of submission of trade unions' annual reports, this role is however, placed under the Labour Bureau of the Office of Labour Commissions for each state.

The formation of a trade union shall abide to certain requirements; for example, the minimum number of employees required to form a trade union is seven. In addition, the Act provides rules regarding deregistration or cancellation of trade union, rights and liabilities of trade unions especially in terms of general funds and separation of funds for political purposes. The Act permits trade union to affiliate themselves with political movements (Box 5A).

**Box 5A: Trade Union Funds for Political Purposes stipulated under TUA 1926 (Amended 2001)**

*Constitution of a separate fund for political purposes.*

- 1) *A registered Trade Union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects specified in subsection (2).*
- (2) *The objects referred to in subsection (1) are:*
  - (a) *the payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of any legislative body constituted under 3[\*\*\*] 4[the Constitution] or of any local authority, before, during, or after the election in connection with his candidature or election; or*
  - (b) *the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate*

Legally, the scope of trade union activities permissible by the law include improvement of position of members in their employment such as getting adequate wages, better working conditions and fair treatment by employers. The trade unions perform two main functions: militant and fraternal. Militancy reflects the strategies adopted by trade unions when the collective bargaining or negotiation process fails. Thus, in this case, the trade unions may resort to retaliate by using tactics like go-slow, strike and boycott. Meanwhile, the fraternal functions of trade unions refer to their activities of rendering assistance to the members in time of need and improving their efficiency. They assist their members to improve morale, generate self-confidence and legal assistance. Their success in carrying out these duties is dependent on the availability of funds that are accumulated via collection of subscription from members as well as donations from outsiders.

India has not ratified both the ILO conventions of 87 and 98. Despite not ratifying the conventions, multiple unions are allowed to be formed within one establishment, in which employers are allowed to choose the authorised bargaining unit of their choice through recognition process. However, the Act restricts unions' formation to be within the same industry with which the trade unions are to be registered (Box 5B). Hence, membership is open irrespective of occupational groups provided they are within the same industry.

**Box 5B: Trade Union-Industry Relation**

*6. Provisions to be contained in the rules of a Trade Union. A Trade Union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely:*

- (e) *the admission of ordinary members who shall be persons actually engaged or employed in an industry with which the Trade Union is connected, and also the admission of the number of honorary or temporary members as office bearers required under section 22 to form the executive of the Trade Union;*



The structure of trade union consists of three levels: plant/shop or local, the state and the centre (commonly known as federation or confederation at national level). It is generally from the central level that the ideology of the important central federations of labour movement in India percolates down to the state and local levels. Every national or central federation of labour movement in India has state branches, state committees or state councils, from where their organisations work down to the local level. The National Federations have all the trade unions in a given industry as their affiliated members. Every trade union, irrespective of the industry to which it belongs, can join a general national federation.

Based on their political inclination, the affiliated trade unions may adopt either cooperative, continuous strife and litigation or militant strategies with the employers and the government. Of 13 national federations of trade unions in India, 11 of them affiliated with the national political parties. For example, in 2011, over 186 members of the Indian National Trade Union Congress (INTUC) are affiliated with the Indian National Congress (INC) party and are the assembly legislative members. Hence, affiliated trade unions leaders are generally also hold leading position in India's political parties.

Trade unions in India like their international counterparts are entities that act as change agent in the socio-political system with the goal to avoid workers' exploitation. In brief, trade unions may adopt various roles such as: (i) bargainer; (ii) agents of state; (iii) partners in social control; (iv) leftists or enemies of economic systems; (v) supporters of employers; (vi) change agents. For example, the National Federation of Indian Trade Union (NFITU) provides services such as seminar on awareness of wellness to their members. Other services offered by trade unions in India as reported by the Labour Bureau include compensation payment to the members for loss arising out of trade disputes, funeral, sickness and unemployment benefits, education, social and religious benefits to the members.

**JAPAN.** The Japanese political system is classified as a constitutional monarchy based on its constitution in which the power of the Emperor is limited and is relegated primarily to ceremonial duties. The power and authority of the government is delegated through three branches which include the Executive (the Cabinet), the Legislative (the National Diet) and the Judicial (the Supreme Court and other inferior courts). Japan is classified by the World Bank as a high income country with the GDP of USD4.458 trillion and GDP per capita of USD32,484 in 2015. Meanwhile, its population was 127 million with a labour force participation rate of 59.7 percent as of December 2015. The unemployment rate was 3.4 percent while the inflation rate stood at 0.2 percent in the same year.

According to The Labour Union Act (Act No. 174, 1949), Article 19-2, The Central Labour Relations Commission shall be established under the jurisdiction of the Minister of Health, Labour and Welfare based on the provisions of Article 3, paragraph 2 of the National Government Organization Act (Act No. 120 of 1948). Trade unions that meet all conditions in the formation of a trade union are registered by the Labour Relations Commission in which they would be certified as a legal entity and accorded legal protection.

The Labor Union Act 1949 (amended 2005) defines a trade union as an association which promotes the economic wellbeing of its members without being a social, political or welfare organisation. Thus, trade unions must neither (i) receive any financial help from employers, nor (ii) represent the interests of management. The purposes of this Act are (i) to elevate the status of workers by promoting equal standing with their employer during bargaining activities; (ii) to protect workers by having autonomy and self-run organisations; and (iii) to encourage the practice of collective bargaining. The Act sets the criteria and prerequisites for the formation of trade unions. There are three main conditions to be fulfilled

before their formations; (i) comprised mainly of workers; (ii) operated independently from management control; and (iii) not to be financially subsidised by the management.

Japan ratified both ILO conventions of 87 and 98 that enables it to establish an open structure with freedom to form trade unions including general and multiple unions. Most unions however, are formed at the enterprise level but are affiliated with the national trade unions. Enterprise union has the resources and engaged more in bargaining activities guided by the principle of cooperative relationship between employers and employees. Specifically, trade unions in Japan are described as having a “triplicate structure” that comprises:

- enterprise trade unions organised for each business (e.g., the Toyota Motor Workers' Union).
- industrial trade unions organized as loose federations of enterprise union members gathered by industry (e.g., Japan's National Union of General Workers (ZenKokou Ippan Roudou Kumiai in Japanese)
- national centres which is made up of the industry trade unions gathered at the national level (e.g., Japanese Trade Union Confederation, Rengo)

The services provided by the trade unions in Japan are considered very extensive whereby they participated in cooperatives such as;

- Workers' mutual aid cooperatives (offer personal and group life insurance plans as well as fire insurance for local union members).
- Credit cooperatives (collects deposits from union members and offers loans).
- Consumers' housing cooperatives (building societies which are mainly for union members and builds living accommodation in the Tokyo Metropolitan area).

Apart from that, trade unions in Japan are also involved in mutual aid activities by making the services available for members of unions working at small and middle-sized enterprises (Inoue, 1999).

To a certain extent, trade unions in Japan have some connections with political parties. For example, Rengo (Japanese Trade Union Confederation) is affiliated with the Democratic Party. However, Zenroren (National Confederation of Trade Unions) claims not to be affiliated to any political party but is generally aligned with the Japan Communist Party. Meanwhile, politically, Zenrokyo (National Trade Union Council) has had a close relation with the left group of the Social Democratic Party and also supports the New Socialist Party. Nevertheless, Zenrokyo does not force its members to raise funds as for such organizations or to support these political parties.

**SOUTH KOREA.** South Korea is a presidential representative democratic republic, with a multi-party system. The power and authority are distributed among the executive branch, legislative branch and judicial branch. In terms of economic performance, South Korea has been classified by the World Bank (2016) as high-income country. In 2015, Korea registered 2.6 percent economic growth with a GDP of USD1378 billion, GDP per capita was USD27, 221.5 and an unemployment rate of 3.1 percent.

The freedom of establishment and the right for recognition of a trade union in South Korea is stipulated in the Trade Union and Labour Relations Adjustment Act 1997 (TULRA) with the latest amendment being in 2010. The Act comprises of eight chapters covering main aspects of trade union and labour relations such as the establishment of trade union, collective bargaining and industrial actions (ILO, 2016; Ministry



of Employment and Labour, 2016). The Act is generally meant for employees in the private sector with the main goal of maintaining and improving working conditions, the economic as well as social status of workers. This is achieved through securing the workers' rights of association, collective bargaining and collective action pursuant to the Constitution. In the case of public officials, their rights to freedom of establishment of association are specified in a separate piece of legislation, the Act on the Establishment and Operation, of the Public Officials' Trade Unions 2005 (Amended 2008). As a whole, the purpose of this Act is to stipulate matters concerning the establishment and operation, etc. of public officials' trade unions in accordance with the provision of Article 5 of the TULRA in order to guarantee public officials' basic labour rights as prescribed in Article 33(2) of the Constitution.

Workers in South Korea are free to form and join trade unions of their choice except for public servants or teachers who are subjected to other enactments which set certain conditions. In the case of a trade union which is not established under the TULRA, it has no right for remedy for unfair labour practices at the Labour Relations Commission. This Commission is a tribunal established under the Labour Relations Commission Act (Law No. 5311), 1997 which serve as an avenue for trade unions to resolve their dispute.

Since joining ILO in 1991, South Korea has ratified both conventions 87 and 98. The TULRA allows multiple memberships but collective bargaining process recognition will be based on majority representation. The TULRA has been amended in 2010 to allow multiple unions. Since July 2011 workers are permitted to establish one or more trade unions in one organization and choose their preference union (Young, 2012).

The majority of trade unions is enterprise-based in which many of them are allied with two unions' federations namely the Federation of Korean Trade Unions (FKTU) and the Korean Confederation of Trade Unions (KCTU). Both FKTU and KCTU are affiliated with the International Trade Union Confederation. Apart from the KCTU and FKTU, other influential trade unions include: The Korea Health and Medical Workers Union, the Korea Finance Industry Union, the Korea Metal Workers Union, Korean Government Employees' Union (KGEU) and Korean Teachers Union (KTU).

Trade unions in South Korea are known for their militancy and power to influence the government. Apart from core trade union functions such as collective bargaining and collective agreement, strikes, rally and protests are common activities of trade unions in South Korea. Throughout 2012 to 2015 the KCTU organized 13 strikes against the government policies and demand for the removal of the President who is believed to be less favorable of trade unions movement. The government has declared these strike illegal resulting in more than 20 unions' leaders being sentenced to imprisonment (ITUC, 2016). Despite struggling in maintaining workers' rights, most of the trade unions particularly affiliated with FKTU and KCTU, manage to offer a wide varieties of services to their members. The services include labour community centres in main industrial areas, counseling, libraries, computer labs as well as retirement benefits and credit facilities (Choi, 2009)

The TULRA clearly outlines the separation between trade unions and political party. For example, although FKTU had participated in the establishment of the Democratic Party (formerly known as Democratic United Party), they cannot become one of its wings. Despite this restriction, to a certain extent they do have indirect influence on the political process mainly to influence public policies. For example, the union (FKTU) had also involved actively with the ruling Grand National Party especially during the revision of labour laws. Similarly, KCTU in principle is championing for democracy and political freedom in which members are allowed to participate in some form of political activities including holding the positions in the local government and the National Assembly.

**AUSTRALIA.** Australia has political characteristics which originate from the British system of parliamentary constitutional monarchy. The Commonwealth of Australia, more commonly referred to as the Australian Government, consist of the six self-governing states of New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia, each having their own state constitutions. These constitutions also mandated the establishment of the respective States' divisions of legislature, executive and judiciary which also exist at the federal level. Hence these state parliaments are permitted to pass laws related to any matter that is not controlled by the Commonwealth including those pertaining to industrial relations matters.

Australia is one of the strongest mixed market economies with a GDP of USD1.23 trillion and a GDP growth rate of 2.5 percent in 2015. Being a high income nation, its economy is driven mainly by the services sector which accounts for 68 percent of GDP. It has a population of 23.9 million, as estimated in December 2015, while as of July 2016 the labour force participating rate was calculated as being 64.8 percent with a 5.7 percent unemployment rate (Australian Bureau of Statistics, 2016).

The existing industrial relations system, known as the Fair Work System, is the main feature in Australia and was created by the Fair Work Act 2009 which took effect on 1 July 2009. The Fair Work system covers most Australian workplaces. It is the national workplace relations system formed from a combination of legislation that applies to most employees and employers in Australia. It includes the Fair Work Act 2009, the National Employment Standards, registered agreements and awards. Working out who is covered is important because certain federal bodies can only work with employers and employees covered by the Fair Work system. Employers and employees who aren't covered by the Fair Work system would be covered by their relevant states.

Trade Unions in Australia are classified as registered organisation along with the employers' associations under the Fair Work (Registered Organisations) Act 2009 (RO Act). This Act governs the registration and operation of trade union and similar organisation and replaces a series of prior legislation including the Workplace Relations Act 1996 and Industrial Relations Act 1988. These significant changes to the industrial relations system of the country occurred when the Labour party took power in 2009. The main institution responsible for administering the provisions of this Act is the Fair Work Commission (FWC) through its Regulatory Compliance Branch (RCB). Its roles, in as far as trade unions and similar organisations are concerned, covers their registration, accountability, rules making, financial reporting, elections and conduct of officers as well as granting them with the right of entry to employers' premises. In performing its roles RCB uses a risk-based approach by effectively managing the risks arising from the regulatory framework applicable to registered organisations - i.e. in this context, trade unions - while at the same time minimising the regulatory burden on them. The enforcement role of RCB includes conducting inquiries and investigations into compliance by registered organisations. This follows the requirements stipulated under the RO Act. Within the period 2014-15, RCB has overseen more than 100 registered organisations, with around 400 reporting units (unions and employer associations). It has achieved a commendable performance in 2014-15, including 100 percent voluntary compliance of annual returns among the registered organisations under its care.

The Australian labour movement began as early as in the 19th century when the trade unions emerged as the right wing of the Australian Labour Party (ALP). The formation of the ALP in 1890s was in fact initiated by the trade unions to represent the interests of the working people in Australia. Whilst at the national level the ALP is the oldest political party in Australia, its associations with trade unions is one of the few systems globally in which trade unions have direct affiliation with a political party. This accounts for why the trade union movement in Australia have significant representation in the ALP's internal structures



and forums. The linkages that exist between the two institutions provide them with a strategic alliance benefiting both parties. While the ALP supports industrial goals of trade unions to improve the standard of living for their members, the trade unions on the other hand support the political goals of the party through financial and personnel resources for electoral campaigns (Markey 2016). Because of this, the trade unions institutions have direct influence in the choice of parliamentary candidates and hence, can influence policy including the industrial relations system chosen by the country. For example, when the ALP took power in 2009 its revamped the industrial relations system with the enactment of the Fairwork Act 2009, (FWA, 2009). The new industrial relations system, which took effect on 1st January 2010, came with a motto of Forward with Fairness and was said to relieve the harshest remaining aspects of the previous legislation (Gillard, 2008). As noted by Knott, (2016) up to 2013, the ALP government made 27 appointments to the FWC, of which 18 had ALP-aligned or trade union backgrounds. At the time of this report being written, the FWA is still in place but there has been a call for the system to be reviewed.

The process and eligibility to form trade unions in Australia starts with interested parties lodging a formal application to the Fairwork Commission using prescribed forms. Then this application will be publicised for the public to comment or object before the Commission makes a decision. The eligibility to form a trade union depends on the nature of the associations to be formed. For example, to form an association of employees there must be a minimum of 50 members who are employees while for an enterprise association, at least 20 members who are employees who perform work in the same enterprise are required.

Despite the long history of trade unionism in Australia, a growing need for them to be stronger has emerged since the 1980s as workers report widespread limited access to economic resources and employee benefits and employees only having a very little voice in the workplace.

**EUROPE.** The two countries benchmarked in this study are Germany and Sweden. Each of these countries is discussed in greater details as follow.

**UNITED KINGDOM.** The United Kingdom economy is also based on a mixed economy in which most of the economic decisions are left to the market with some decisions such as public education and military spending, amongst others, made by the government. It is the world's fifth largest economy with a GDP of USD2.849 trillion in 2015. In 2015 the population was estimated at 65.1 million with a labour force participation rate of 78.40 percent and unemployment rate of 5 percent in April 2016.

The UK economy is driven mainly by the services sector both for output and employment followed by the manufacturing and construction sectors. The services sector constituted almost 80 percent of GDP and more than 80 percent of employment. The services sector will remain the main focus and is expected to exceed the manufacturing activities by 2020. This clearly has influence on the employment and industrial relations activities of the country.

The UK trade unions are permitted under the law to affiliate with any of its political party. In fact, the trade unions created the Labour Party in the UK and as at 2016, fourteen trade unions are affiliated with the party. The trade unions registrations and activities in the UK are governed under Trade Union and Labour Relations (Consolidation) Act 1992 (TULRC) being the main legislation. This Act contains most of the provision of its earlier predecessor which is Trade Disputes Act 1906. The 1992 Act has been amended several times to keep with international standard. Its main objective is to regulate the collective labour relations specifically between the trade unions, employers' associations, industrial relations and industrial action. This Act provides the authority to the Certification Office for Trade Unions and Employers'

Associations as the main institution with the statutory functions relating to trade unions and employers' associations in the UK. The Certification Office for Trade Unions and Employers' Associations is placed under Department for Business, Energy & Industrial Strategy and is headed by the Certification Officer.

Among others its functions included registration, enforcement, monitoring, hearing (determine complaints concerning trade union elections) as well as acting as prescribed person (whistle blowing). It also maintains a list of trade unions and makes determination on their independence prior to seeking for recognition from employer. The functions of the Certification Officer will be further enhanced with new powers under the newly introduced Trade Unions Act 2016 which has received Royal Assent on 4 May 2016 and are to be implemented in stages beginning in 2016. It provides new roles and powers to the Certification Officer with the objectives of enhancing transparency and accountability of its services (Table 5.3).

**Table 5. 3 New Roles and Power of the Certification Officer**

**Trade Union Act 2016: New Roles and Power of the Certification Officer**

- Investigating and determining statutory breaches without the need for a complaint from trade unions member.
- Imposing financial penalty up to £20,000.
- Power to enforce its own Orders
- Appeal to Orders of Certification Officer can be made both on point of fact or law to the Employment Appeal Tribunal.
- Power to require trade unions to include significantly more information in their annual returns.
- Power to enforce trade union reporting requirements by way of declaration, orders and financial penalties.
- Power relating to approval and overseeing trade unions financial contributions to political fund.
- Matters pertaining to funding cost of running the Certification Office for Trade Unions and Employers' Associations



In addition to the TULRC and TU Act 2016, there also exist several codes and guidelines for the trade unions to follow in ensuring good practices and compliance. These codes and guidelines provides trade unions with clear guidelines and advice on their operations (Table 5.4)

**Table 5. 4 Trade Unions Codes of Practice and Guidelines**

#### **Trade Unions: Guidance**

- Blacklisting Of Trade Unionists.
- Industrial Action and The Law.
- Industrial Action and The Law: Guide for Employees and Trade Unions Members.
- Industrial Action and The Law: Citizen's Right to Prevent Disruption.
- Payment of Union Subscriptions Through Check Off.
- Trade Union Executive Elections: Guide for Trade Unions and Their Members.
- Trade Union Funds and Accounting Records.
- Union Membership: Rights of Members and Non-Members.
- Unjustifiable Discipline by A Trade Union.
- Trade Union Political Funds.
- Reps In Action: How Workplaces Can Gain From Modern Union Representation

#### **Trade Unions: Codes of Practice**

- Code Of Practice: Access And Unfair Practices During Recognition And De-Recognition Ballots
- Code Of Practice: Industrial Action Ballots And Notice To Employers
- Code Of Practice: Picketing

**GERMANY.** Germany is a democratic, federal parliamentary republic in which the federal legislative power is vested in the parliament of Germany (the Bundestag) and representative body of each of the 16 regional states called the Länder (the Bundesrat). Germany is governed by a multi-party system which is dominated by the Christian Democratic Party (CDU) and the Social Democratic Party of Germany (SPD). At the federal level, the German constitution, the Grundgesetz (Basic Law), divides power between executive branch, the legislative branch, and the judiciary.

Germany has a population of 80.7 million in 2015. Propelled by the social market system, Germany's economy is one of the strongest in the world which operates on the principles of openness, competition-oriented and fairness, and solidarity. The current challenges faced by German's economy include the accelerated technological change and an ageing society. In 2015, Germany had registered the GDP and GDP per capita at USD3,355 billion and USD45,269.79 respectively. At the same time the unemployment and inflation rates were 4.7 percent and 0.23 percent respectively. The labour force participation rate for Germany in 2015 was estimated at about 60 percent.

At the federal level, labour issues is managed by the Federal Ministry of Labour and Social Affairs which covers the aspects of industrial relations, social security, employment and vocational training,

occupational safety and health and labour standards. Meanwhile, at the state level ("Land"), the ministries entrusted with a labour or social affairs portfolio take care of the implementation or enforcement of federal laws and policies concerning labour.

Germany is a member of the International Labour Organization (ILO) and has ratified Convention 87 concerning Freedom of Association on 20 March 1957 and Convention 98 on Right to Organize on 8 June 1956. There is no law that specifically governs the establishment of a trade union. Nevertheless, there are provisions protecting the rights to trade unionism in Germany such as the Article 9, Paragraph 3 of the Basic Law that guarantees freedom of association and no one can be prevented from joining a trade union (Box 5C)

**Box 5C: Basic Law, Article 9, Paragraph 3**

*(3) The right to form associations to safeguard and improve working and economic conditions is guaranteed to everyone and for all professions. Agreements which restrict or seek to impair this right are null and void, measures directed to this end are illegal.*

Despite the absence of the specific law on trade unionism in Germany, the following three Acts may be considered key in dealing with trade union matters:

- The Civil Code that defines employment relationship.
- The Works Constitution Act that regulates cooperation between employers and employees.
- The Act on Collective Agreements that governs collective agreements.

Although not officially affiliated to any political parties, trade unions in Germany do see themselves more than just a "collective bargaining machine". They are also acting as important political players that impact the society, economy and environment particularly on the labour market policy and professional education. For example, DGB that considers itself as "unified" trade unions claimed to be unofficially affiliated or financed by any political party despite historically been closely related to the Social Democratic Party (SPD). In fact, some of the trade union leaders are also members of the SPD.

Overall, employees' representation in Germany has a binary structure that includes the "trade unions" and "work councils". Trade unions generally set the framework for working conditions that include collective wage agreements either for the whole sectors or single companies as well as defining wage levels and working time. Meanwhile, the work councils (Betriebsräte) are elected by employees and represent their interests at company level. The role of the work councils is to shape and supervise the execution of the frameworks set by trade unions and laws of the company.

At present, the Confederation of German Trade Unions (DGB, Gewerkschaftsbund), founded in 1949, is the main trade union confederation and serves as an umbrella association of eight single trade unions for individual sectors. It represents more than 6 million people in 2014 comprises all types of workers regardless of their ideological leanings or political convictions. The eight unions affiliated with DGB are:

- IG Bauen-Agrar-Umwelt (IG BAU) or Industrial Union Construction, Agriculture, Environment
- IG Bergbau, Chemie, Energie (IG BCE) or Industrial Union Mining, Chemicals, Energy
- Gewerkschaft Erziehung und Wissenschaft (GEW) or Union for Education and Science
- IG Metall or Industrial Union for Metalworkers
- Gewerkschaft Nahrung-Genuss-Gaststätten (NGG) or Union for Food, Beverages, and Catering



- Gewerkschaft der Polizei (GdP) or Police Union
- Eisenbahn- und Verkehrsgewerkschaft (EVG) or Railway and Transport Union
- Vereinte Dienstleistungsgewerkschaft (ver.di) or United Services Union

If not joining DGB, alternatively workers in Germany can be members of the non-DGB unions. There are unions dedicated to employees in the public and private sectors, and smaller unions like the Christian confederation, the CGB. In addition to the confederations of trade unions, there are also autonomous unions for specific occupations. For example, there are trade unions mainly for hospital doctors (Marburger Bund), airline pilots (Cockpit), flight attendants (Ufo) and air traffic controllers (GdF).

The two biggest unions affiliated to DGB are the IG Metall and Ver.di. These individual unions are very powerful, and certainly have greater resources than the DGB itself. For example, IG Metall has about 2.3 million members in 2014 from the metal (including automobile and machine building), electronics, steel, textile, wood and synthetics industries. The services promised by IG Metall to its members are extensive and beyond the bread and butter issues (e.g., working conditions, working hours, holidays and income). IG Metall also offers legal protection, leisure time accident insurance, support in case of strike, support in case of lockout, support in case of emergency, and support in case of death. Meanwhile, membership of Ver.di is extensive which include employees, freelancers, civil servants and students drawn from over 1,000 different occupations in services or related industries such as education, art and culture and the media. Among all-embracing services provided by Ver.di are free income tax advice for members, free telephone advice on tenants' rights, personal pension advice, insurance scheme for leisure accidents, advisory service for the self-employed, discounts for international student identity card (ISIC) holders, attractive discounts from a wide range participating companies, and subsidies, legal protection and emergency support.

An alternative to trade unions in Germany is works council. The rights of the works councils are vested in the Works Constitutions Act (Betriebsverfassungsgesetz). This council's rights are grouped into three categories, being: (i) matters where the council may just need to be informed; (ii) matters which require the consent of the works council; and (iii) matters on which an agreement may be enforced by the works council. Works council have co-determination rights on social and personnel matters. In a nutshell, trade union rights supersede works councils' rights. Specifically, matters which are governed by a collective bargaining agreement may not be governed by works agreement between an employer and its works council. The solidarity and cooperation between trade unions and works councils in Germany are clearly stipulated in Section 2 of the Works Constitution Act 2001 which were last amended in 2013 (Box 5D).

**Box 5D: Status of trade unions and employers' association Section 2 Status of trade unions and employers' associations.**

**(Status of trade unions and employers' associations)**

- (1) The employer and the works council shall work together in a spirit of mutual trust having regard to the applicable collective agreements and in co-operation with the trade unions and employers' associations represented in the establishment for the good of the employees and of the establishment.*
- (2) In order to permit the trade unions represented in the establishment to exercise the powers and duties established by this Act, their agents shall, after notification of the employer or his representative, be granted access to the establishment, in so far as this does not run counter to essential operational requirements, mandatory safety rules or the protection of trade secrets.*
- (3) This Act shall not affect the functions of trade unions and employers' associations and more particularly the representation of their members' interests.*

**SWEDEN.** Sweden is governed on a platform of a parliamentary representative democratic constitutional monarchy. The Prime Minister leads the government that exercises the executive power and they are elected within a multi-party system. At the national level, the people are represented by the Swedish parliament (Riksdag) which has the legislative power. From the economic viewpoint, Sweden is one of the world's most highly developed industrial societies. The World Economic Forum ranks Sweden the sixth most competitive country in the world and also the sixth easiest country in the world to trade with, according to the World Bank. "The Swedish Model" which was developed by the Social Democrats, capitalizes on the strong public-private partnership.

The overall objective of the Swedish government's economic policy is to create as high a level of welfare as possible by contributing to:- (i) a high level of sustainable economic growth and employment; (ii) a welfare system benefiting everyone; (iii) a stable, high level of resource utilization. The mixed economy system that was put in place featured centralised wage negotiations and a heavily taxed-subsidized social security network. In 2015, Sweden's population was about 10 million with the GDP and GDP per capita of USD492.6 billion and USD54,988.62 respectively. The economic growth of Sweden was registered at 4.1 percent in that year while the unemployment rate was reported to be around 7.6 percent and the inflation rate was - 0.05 percent. The labour participation rate in 2015 was estimated at about 64.0 percent. Sweden's exemplary economic success was attributable to the solid institutional foundations for an open-market system coupled with a strong universal social protection system. In addition, the judiciary, independent and free of corruption, provides strong protection of property rights and upholds the rule of law.

Matters regarding trade unionism in Sweden are within the purview of the Ministry of Employment with the major legislation that governs trade unions and their activities are the Employment (Co-determination Act in the Workplace) Act (1976:580). In particular, section 6 of the Act defines the term "employee organization" as an association of employees that, under its by-laws, is charged with safeguarding the interests of the employees in relation to employers. In addition, Section 7 of the similar Act guarantees the "right of association" which assures the right of employers and employees to belong to an employers' organization or an employees' organization. Meanwhile, Section 10 stipulates the right to negotiation which can be initiated by either the employees' organization or employer. The Employment (Co-determination Act in the Workplace) Act (1976:580) coexists with the Trade Union Representatives (Status at the Workplace) Act (SFS 1974:359) that emphasizes the rights of trade union representatives. The Act refrains employer from preventing a trade union representative from performing his or her duties including the use of premises or space at his or her own place of work for the performance of the trade union activity.

The comprehensive framework of Swedish labour system is established based on both the law and collective agreements. At present, the interests of Swedish labour market that comprises around 100 parties - are represented by trade unions and employers' organizations. These parties have agreed and enforced more than 650 collective bargaining agreements covering issues like salary and general terms and conditions of employment. There is no statutory minimum wage in Sweden therefore it is set by industry through collective bargaining contracts. For this reason, majority of the population are unionized in which about 90 percent of Swedish employees are covered by collective agreement (Arvidsson, 2014). Collective agreement is thus the main instrument regulating the legal relationships between a company, its employees and the trade union. This collective agreement may become standards that may be applicable at all workplaces in that sector.



Structurally, there are three national confederations of trade unions in Sweden. They are:

- The Swedish Trade Union Confederation (LO) for blue-collar workers of 14 trade unions of workers in the private, municipal and state sectors. The predominant organizational model in the LO unions is based on the workplace principle, that is, all the employees at a workplace belong to the same trade union. The largest trade union is Swedish Municipal Workers'. Other affiliated unions include Building Worker's Union, Electrician's Union, Musicians' Union, Transport Workers' Union.
- The Swedish Confederation of Professional Associations (SACO): a confederation of 22 autonomous trade union associations comprises of around 650,000 academics including students, researchers, employees, managers and entrepreneurs. Among associations affiliated with Saco include The Swedish Association for Graduates in Business Administration and Economics, Swedish Association of Physiotherapists. Studentrad is Sweden's largest union organization for students, and is run by students for students. It influences education and labour market policies to improve situation of students and new graduates.
- The Swedish Confederation of Professional Employees (TCO) for other white-collar workers. TCO applies two principles for membership: industrial (all the employees in the same industry belong to the same union) and occupational (all the employees in the same occupation). Among the 15 trade unions affiliated with TCO are the Co-operative Employers' Association, the Employers' Organisation of the Swedish Banking Institutions and the Unionen. Members of Unionen include students and self-employed. White-collar workers with an academic qualification can decide whether they want to join an organization affiliated to TCO or to SACO.

With no exception, like in many other developed countries, trade union membership in Sweden is experiencing a decline especially among the younger generations. For this reason, measures have been taken to address the issue. Among others, include a project by some members of TCO to encourage students to join trade unions as well as to ensure students who are members of trade unions remain as members once they join the workforce.

Many trade unions in Sweden have close connections with political parties. For example, the Social Democratic Party (SDP) has a close relationship with the Swedish Trade Union Confederation (LO). The cooperation between LO and SDP are based on similar values: equality, solidarity, mutual respect and confidence. For this reason, LO also has representatives on the governing bodies of various governmental authorities. At the international level, the European Trade Union Congress (ETUC) is considered the most important forum for all Swedish national confederations whereby they can influence European policy. Swedish trade unions also actively involved with the Trade Union Advisory Committee to OECD (TUAC), International Trade Union Confederation (ITUC), and the Council of Nordic Trade Unions.

In terms of services offered by trade unions to their members in Sweden can be considered as one of the best in the world. Many trade unions provide extensive services and benefits to their members. On top of providing typical bread and butter coverage, many trade unions do offer benefits such as a comprehensive social security system that provides financial protection in the event of illness, unemployment, occupational injury, parental leave, retirement, loans, study grants, and union journal (e.g. Unionen). One of the flagship schemes offered by Sweden is the Ghent system. The trade unions take the responsibility to pay unemployment benefits to members instead of the government agencies.

**UNITED STATES OF AMERICA.** The United States of America is a highly democratic federation with republic system. The President as the head of the country and head of government, together with three distinct other branches, namely legislative, executive and judicial. The governing powers are vested by the U.S. Constitution in the Congress, the President, and the federal courts, including the Supreme Court, respectively. The United State politics have long been dominated by two dominant parties, The Democrat and Republican for more than century. The United State is a high income nation with a highly developed trade-oriented market economy. The GDP was USD16.5 trillion in 2015 and represents 28.95 per cent of the world economy. Its labour force participation rate was estimated at 62.80 per cent while the unemployment rate was 4.9 percent in October 2016.

The formation of the trade unions in the US is governed mainly by the National Labor Relations Act (NLRA) 1935 (Amend 1974) which is enforced by the National Labour Relations Board. The main objective of the Act is to protect the rights of employees and employers, to encourage collective bargaining, and to curb unfair labour-management practices. Section 7 of the Act provides the right to employees to form a trade union (Box 5E). However, under the Act, employees who are not members of a union will also enjoy the same rights of the trade union members (US Department of Labour 2016).

**Box 5E: Section 7 (29 U.S.C. § 157)**

*"Employees shall have the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection"*

The trade unions administration and activities in the US are governed by the Labor-Management Reporting and Disclosure Act (LMRDA) of 1959. The Act is administered by the Office of Labor – Management Standards (OLMS) which manages the relationship between a trade union and their members. This includes the process of promoting union democracy, submission of financial reports, and elections of trade union officers. LMRDA guarantees every member of a labour organisation an equal right with every other member to nominate candidates, to vote in union elections or referendums, to attend membership meetings, and to take part in the discussion and voting upon the business of such meetings. The Office of Labor-Management Standards (OLMS) is the Federal agency with primary authority to enforce many LMRDA provisions. The Board functions are:



**Table 5. 5 Office of Labour-Management Standards Scope of Work**

• Public Disclosure Reports	• Compliance Audits
• Each union required to file an initial information report and copies of their constitution and bylaws.	• to determine if unions are complying with the law.
• In addition, unions must file annual financial reports each year.	• uses a streamlined audit approach called the Compliance Audit Program (CAP) to audit local unions and to verify LMRDA compliance
	• increase communications and cooperation between OLMS and local, national, and international labor unions.
• Investigations	• Education and Compliance Assistance
• complaints from union members	• program to promote voluntary compliance with the LMRDA by informing union officers
• information developed by OLMS and government agencies	• Publishes and distributes explanatory pamphlets which emphasize voluntary compliance with the LMRDA and outline the law's requirements;
• civil matters and criminal matters	• Conducts seminars and workshops about the law in general or about specific areas required by the LMRDA
	• Participates in union conventions by providing displays, giving speeches, taking part in panel discussions, and conducting workshops for those attending

Both of the ILO 87 (Convention No. 87 establishes principles and guarantees concerning the right to organize vis-à-vis the State) and 98 (Convention No. 98 protects workers and their organizations especially from employers. Convention No. 98 also promotes voluntary collective bargaining to determine conditions of employment). Both conventions are not being ratified by the USA. According to Greenfield & Compa (2007), the United States do not to ratify the convention prior to 'legal barrier' precisely because ratification would create an obligation to bring domestic law into compliance with the conventions'. In detail the Senate has highlighted three main conditions to ratify any ILO Convention in future; (Box 5F)

**Box 5F: Compliance of ILO**

- (1) *US law must comply with the ILO convention before the Senate ratifies it - that is, only both houses of Congress can change federal labour law through the normal legislative process, not the Senate alone 'through the back door' by ratifying an ILO convention;*
- (2) *a government-business-labour committee called the US Tripartite Advisory Committee on International Labor Standards (TAPILS) must agree by consensus that US law comports with the ILO convention before submitting it for ratification; and*
- (3) *ratification cannot change state labour law and practice.*

Any worker can join a trade union based on sector of industry (AFL-CIO 2016). The union also forms a non-members affiliate called as Working America. Working America is a workers community network initiated by the AFL-CIO to connect non-union working people. Currently more than three million non-union workers are joining the networking to fight for workers' rights, better working conditions and environment as well as engage in collective bargaining. Most unions in the United States are aligned with one of two large umbrella unions: the AFL-CIO created in 1955, and the Change to Win Federation which split from the AFL-CIO in 2005. The American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) is the largest trade union federation in United States. The federation of 56 national and international unions was formed in 1955 by the merger of AFL and the CIO. The union core objectives are to assist workers bargain collectively for better working conditions as well as independent voice of workers in politics and legislation (AFL-CIO, 2016).

Political affiliations between a union and political party are permitted under the federal constitution. Before 1947, union are banned from any political activity under the Section 304 NLRA 1935. The amendment of Federal Election Campaign Act Amendments of 1976 allowed the union to contribute to the election campaign. Union affiliated to political party by contributed to political party fund for campaign and election purpose. Comparing between two dominant parties, The Democrat tends to have a very close relationship with the unionism. The union members supported Democrats by providing money, volunteers and votes (Schlozman, 2013). The Obama administration has a strong relationship with union. The Obama administration appointed three influential labour movement activists in 2009 to lead important posts related to labour relation (La Jeunesse, 2012). Between two main trade union federations link with the political party - the AFL-CIO and the Change to Win Federation – both are an advocate policies and legislation on behalf of workers in the United States. Trade union provides services to the member various forms; from collective bargaining and beyond the traditional issues in industrial relation. United States has three distinct classifications of collective bargaining; one for the railroad and airline industries, one for the rest of the private sector, and one for the public sector.

Trade union representing a vast array of service-related workers, the union's membership includes health care employees, janitors, security guards, public service employees, home care workers, building service workers, and probation and parole officers. However, this last is really 51 distinct systems, because the federal government and the fifty states each has its own collective bargaining law for public employees (Compa, 2014).

The bargaining process depends on the size or enterprise. For small size of enterprise, unions usually bargain with management at the enterprise level. For large national groups like General Motors or General Electric, bargaining takes place at the national level on a "master agreement," followed by "supplemental agreements" at the company's different facilities (Compa, 2014). Despite providing the member with 'bread and butter' issue, trade unionism in US also provides several benefits beyond their member's workplace issue. AFL-CIO Union Plus (the union for the working and retired union member) provided the service such as education scholarship for member children, buying and loaning car as well as health insurance.

## **The Continuum of Trade Unions Movement-Malaysia Compared**

The preceding discussions have presented the similarities and differences of the 11 countries in terms of their political and economic settings as well as their trade union systems and practices. The major characteristics of these countries are depicted in the following two-dimensional diagrams. The purpose of



these diagrams is to map the selected countries based on the four dimensions discussed, namely current economic development stage; trade unions affiliation with political parties; trade unions structures, and trade unions functions and services.

Each country is mapped out along two dimensions in each diagram. Diagram 5.1 shows that these 11 countries are mapped out according to trade unions affiliation with political parties and their current economic development stage. It is important to be reminded that the groupings of these countries were not done using absolute numbers but instead were drawn from accessible secondary information and through reflective analysis of written reports available either electronically or in print. Also, countries in each quadrant are listed randomly and not in any particular order so it does not reflect any purposeful ranking of them. Therefore, the arguments and discussions presented here are merely the consultants' interpretations of the publically available information which are guided by the following criteria.

**Political Affiliation.** Trade unions affiliation with political activities in each of the countries is categorized into three:

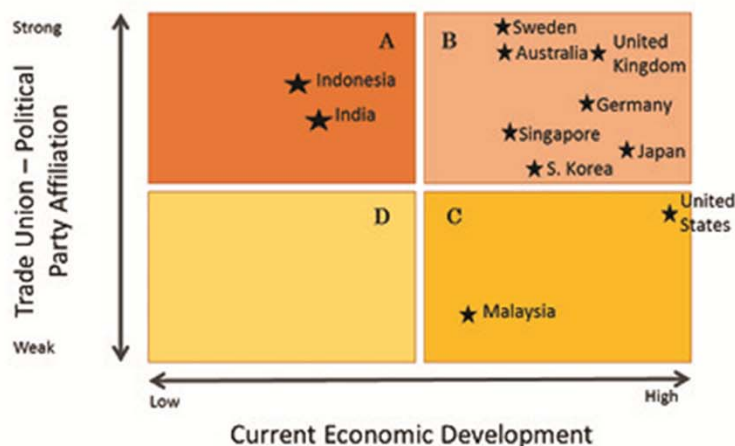
- *Weak:* absence or very limited trade union affiliation with any political party.
- *Moderate:* presence of some forms of unofficial, indirect as well as in discreet manner, trade unions' connections with political entities such as a political party. Trade unions receives fund from political party or vice versa.
- *Strong:* trade unions participate actively and directly in the politics of the country. Trade unions to a certain extent formed a political party of their own.

**Current Economic Development.** Each of the 11 countries benchmarked was classified in terms of its present state of economic development measured by income level according to the World Bank guidelines. Thus, they are grouped as follow:

- **Low Income:** A country with a GNI per capita of USD1,025 or less in 2015
- **Lower Middle Income:** A country with a GNI per capita between USD1,026 and USD4,035
- **Upper Middle Income:** A country with a GNI per capita between USD4,036 and USD12,475
- **High Income:** A country with a GNI per capita of USD12,476 or more

There are four quadrants in Figure 5.1 with each quadrant indicating the different degree of association with these dimensions. Quadrant A represents countries with low economic development and strong affiliation between trade unions and political parties. Among countries in this group are Indonesia and India. Meanwhile, Quadrant B groups countries that are high in economic development and at the same time having trade unions that are strongly affiliated with political parties. The countries that fall into this quadrant are Australia, South Korea, Sweden, Germany, United Kingdom, Singapore and Japan. Quadrant C characterizes countries that have high, or relatively high economic development and less, or indirect, association between trade unions and political parties. The two countries in this group are Malaysia, and the US. Finally, Quadrant D indicates countries that are characterised as low in economic development and have trade unions that are less associated with political parties. In the present exercise, none of the 11 countries benchmarked are categorized in this group. Thus, it can be deduced that in terms of trade unions connections with political parties, Malaysia's present state of trade unionism is different from many of the countries benchmarked. In sum, Malaysia's trade unions are independent from political parties. However, with the introduction of TPPA and the revisions of some provisions of the laws related to trade unionism this scenario might change.

**Figure 5.1 Trade Union in a Political and Economic Continuum**



The second comparison of the 11 countries is based on the trade union structure and organization with the services trade unions provide to their members. Diagram 5.2 shows the groupings of these countries according to these dimensions. In terms of trade union structure and organization, there are two ends of the continuum to depict it. The following criteria are used to categorize each of the countries.

Trade union structure and organisation. Trade unions in each country is analysed based on their degree of openness in terms of membership. Thus, they can be categorised as follow:

- Closed Structure: Membership of trade unions is restricted and limited to similarity of occupation, industry, sector, geographical region.
- Quite Open Structure: Membership of trade unions is open to all workers across different backgrounds and nature of jobs and occupations. Multiple unions and general unions exist.
- Very Open Structure: Membership of trade union is very open to all not only active workers or workers in service but also to retirees and as well as students. Multiple unions and general unions exist.

**Services Offered by Trade Unions.** Services offered by trade unions vary quite significantly between the 11 countries benchmarked. The following criteria are used to categorise the services offered by trade unions in each country.

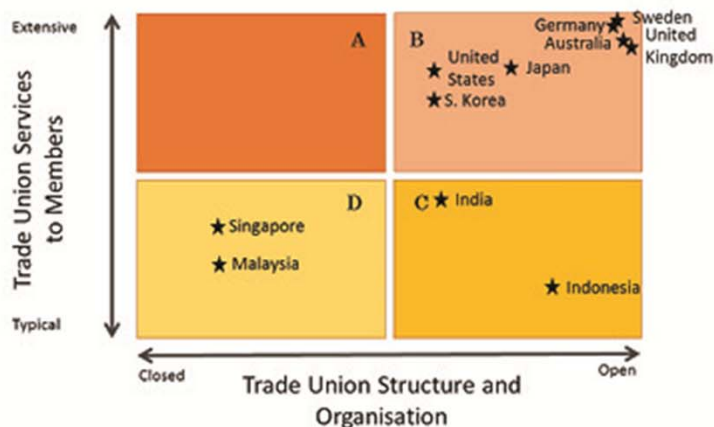
- Typical: Trade union offers strictly bread and butter issues, and services as stipulated in the Collective Agreement. Examples: representation of members in court hearings, represent members in negotiation and collective bargaining process.
- Moderate: Trade union offers more than what are stipulated in the Collective Agreement. For example, For example, counselling service, legal advice, supports for cost of living.
- Extensive: Trade union offer not only bread and butter issues, but also other services including unemployment benefits and insurance. These services are not only offered to members but also their extended family members.

According to Figure 5.2, Quadrant A belongs to countries that have trade unions which are less open in terms of membership but offer considerably extensive services to their members. None of the 11



countries benchmarked belongs to this Quadrant A. Meanwhile, Quadrant B represents the countries that are more open in terms of trade union membership and also offer extensive services to their members. Examples of countries in this group are the United Kingdom, Australia, Germany, Sweden, Japan, South Korea and the United States of America. Quadrant C contains countries with trade unions that are relatively more open but only offer some amount of services to their members. Generally, trade unions in Indonesia and India fall into this category. Lastly, in Quadrant D, the countries are the ones with trade unions with more restricted and limited membership as well as only offering the minimum to quite moderate services to their members. Countries in this group are Malaysia and Singapore. In conclusion, Malaysia's is in a different league in terms of openness of trade unionism and services to the members.

**Figure 5. 2: Trade Union in a Structure and Services Continuum**



## Summary

This Chapter discusses laws and practices with regards to trade unionism in countries that have some form of legal instruments on trade unions. Many of these countries used the global standard set by the ILO. This is an institution that promote human and labour rights agenda through the establishment of conventions and recommendations. The two most important conventions that relates to trade unionism are the Freedom of Association and Protection of the Right to Organise Convention, 1948 and Right to Organise and Collective Bargaining Convention, 1949. Although not all the countries benchmarked in this study have fully ratified these conventions, most however, have ratified at least one of the two conventions. These countries differ not only in terms of the types of conventions they have ratified but also in terms of their economic and political climate as well as the structure and services provided by their trade unions.

The development of trade unionism in any country is influenced by a host of factors and key amongst them being the political, economic and legal climate. In particular, the type of government in power will have the mandate to formulate policies that may or may not be supportive of the progress of trade unionism in their respective country. In terms of political systems, all of the 11 countries are governed by the 'people' in which the power to rule the country is derived from a democratic process. Despite broad similarities in their political systems, these countries are varied in terms of their current stage of economic development. By the magnitude of economic activities, performance and income levels,

eight of these countries are categorized as high income, one as middle income and two countries as low income nations. The majority of these countries practice a mixed-market economic system that encourages economic activities with some government involvement.

The trade union legislations in each of the 11 countries shape the patterns, structure and practices of trade unionism. On one hand, there are countries that are more open on the subject matter, providing freedom for members to form and join trade unions of their choice. This is particularly noticeable in the developed countries like Sweden and Germany. But on the other hand, there are also countries that install some restrictions on the establishment of trade unions. An example of such a country is Malaysia.

Trade unions are also synonymous with political parties in some countries. In these situations, political parties have a strong influence on trade unions' development, policy and activities. Eight of the countries benchmarked indicated such a relationship and dependence – although it could also be argued that the trade unions in such countries are more effective in shaping policies as they have influence within the political system, especially when the party they support holds power. These countries are Indonesia, India, Australia, South Korea, Sweden, Germany, United Kingdom, and Japan. Surprisingly, based on reports, the remaining three countries, Malaysia, Singapore and United States of America, do not seem to indicate excessive influence of political parties on their trade unions. Here, we are not claiming that there was no political party influence at all on trade unions in these countries, but their influence are considered less clear.



# CHAPTER SIX

## CONCLUSION – KEY LESSONS FROM THE ANALYSIS

*Dzulzalani Eden & Awg Ideris Awg Daud*

### Introduction

This Chapter summarises the main findings of the research. It starts with discussing the major findings on the state of trade unions movement followed by describing factors that contributes to the effectiveness of trade unions in Malaysia. It moves on to discuss the findings on the level of understanding and readiness among the trade unions members with regards to TPPA from their own as well as employers' perspectives. Finally, comparisons among the selected countries benchmarked are presented. In addition, two continuums that represent Malaysia's positions with regards to trade unionism in relations to the countries benchmarked were also included.

### Trade Union Movement – from Economics to Social Realities

The findings of this research reveal that the trade union movement in Malaysia has not had the impact on the labour force that would be expected given its density. Within the Asian setting, the trade union density rate in Malaysia has been relatively low for several decades, hovering around nine percent, in contrast to Singapore which has a much higher rate of around 19 percent in 2014. At the international level, Malaysia's trade union density is almost half of that of developed countries like the UK and Australia, indicating a lack of presence in the labour force. Interestingly, this study also revealed that the developed countries dominate in the continuum of countries having trade unions density above 40 percent, as seen in the Nordic and Southern European regions. Similarly, among the countries with trade union density between 21 to 40 percent, high income countries seem to lead, notably the United Kingdom, Canada, Ireland and Austria. However, countries with trade union density less than 20 percent are rather mixed. Whilst Australia, New Zealand and South Korea are among the high income countries within this continuum, the majority are classified as middle income countries including Malaysia and Indonesia.

It could be argued that income may have some relations with trade unionism as has been found in past studies conducted abroad. However, the present study found that economics factors alone have no clear association with trade union density in Malaysia, after examining GDP per capita as well as economic growth. The research instead confirmed past findings in Malaysia that economic factors are not a direct predictor of trade unions density. A host of other factors also contribute to the propensity of trade unionism among the workforce including legislation, government policies, social and cultural influences, as well as employment and labour force structure. Although, evidence from abroad indicates to a certain extent that higher trade union density is dominant in the high and middle income countries, this is likely to be the result of multiple factors, so cannot be assumed to be solely economic.

In terms of the collective agreement coverage, which reflects trade unions power, the study indicates that it has a positive relationship with trade union density. However, when data from Malaysia was analysed separately, again it indicates an unclear pattern. One possible explanation for this could be the limited data as past data has not been made publically available. Another factor is that while data on collective agreement covers the private sectors employees only, the trade union density however, includes both private and government sectors employees. Therefore, a weaker correlation between

collective agreement coverage and trade unions density would be expected, especially given the lesser power of trade unions in the public sector.

From the perspective of trade union members, the research found that they had a favourable experience of the trade union movement in Malaysia, and acknowledged the contributions it made. Their responses were similar regardless of their demographic background - such as types of union they were in, education level and regional locations. Clearly, satisfaction with unions from member's perspective was relatively high. Among the leaders, who were the majority of respondents, it was observed that they were more inclined towards the positive statements so it could be argued that they may not want to portray a negative image of the trade unions. Despite the high ratings, there were nevertheless indications that members perceived room for improvement as no item was fully endorsed.

On the other hand, employers seem to have mixed views on the trade union movement. They commented on the trade unions' voice, structure and roles. Worryingly the trade unions were associated with weakness by employers though ironically some felt threatened by them. The weakness was due to a number of reasons, ranging from their fragmentation to the declining involvement of young employees that together contributed to the weakening of the trade union movement. Interestingly, among the employers whose employees were unionised, their attitudes towards trade unions were much more favourable compared to employers without employees' trade unions. The latter considered trade union as a threat and hence, in their views, is not needed in the workplace.

Meanwhile, delivery effectiveness of trade unions was measured by their ability to serve their members' needs. The study found that the general perception of trade union members, with respect to the aspect of delivery, was favourable. Trade unions were viewed stronger in terms of protecting workers against unfair treatment but relatively less powerful in terms of providing job security, pay benefits and working conditions. Similarly, trade unions were considered relatively less effective in terms of negotiation skills. This was consistent with the views from some of the employers who stated, among other factors, that the in-house unions were too dependent on external organisations such as the national unions or other associations to advise them on industrial relations matters including negotiation skills.

Further analysis of trade union delivery effectiveness from the perspective of trade union members confirmed the three main determinants of trade union effectiveness namely communication and union power; management and union relations, and the union's understanding of employer's business. The strongest predictor of trade union delivery effectiveness was communication and union power. This was consistent with the findings from the employers' focus groups in which employers noted that trade unions must act as the reference point for their members about the expectation of employers. The employers who were more engaged with unions felt that the roles of trade unions should be more progressive and they are more keen to engage them in identifying feasible ways of meeting their member's needs and aspirations. Some employers, however, exhibited less receptive attitudes and were demonstrating elements of control and resistance towards trade unions. These unfavourable attitudes of some managers were also felt by many of the trade union members.

### **TPPA-the Imminent Changes and Glimpse of the Future**

The second part of this study attempted to explore the understanding and readiness among trade unions members regarding the decision of Malaysia to be a member of the Trans-Pacific Partnership Agreement. This decision will necessitate major changes to the trade union laws in Malaysia, particularly in regard



to freedom of associations. Trade unions are therefore expected to undergo extensive transformation in the way they operate.

The findings indicated that the understanding among trade unions members were significantly low in all areas of change the future will hold for the trade union movement. Among the leaders however, it was relatively higher than the ordinary members, although not as high as it should be considering their exposure to a series of engagements with relevant agencies and the information readily available to the public, including through internet sources. Hence, this raises the need to reconsider the method of dissemination of information and the depth of exposure among the public. This is of paramount importance as various interpretations and speculations have emerged, not only among the trade unions members, but also among the employers.

The common view among employers was that they were left dealing with uncertainty resulting from the lack of understanding about what changes would occur once the agreement came into full force. The trade union members too were sceptical about the implementation and therefore, exhibited extremely low levels of readiness and rejected many of the aspects of the TPPA. For instance, both the trade union members and employers were of the opinion that liberalising trade union leadership to allow foreign workers to lead the union may create a significant change of culture in the movement. They would prefer the current rules to be maintained to keep unions away from foreign culture. The trade union members themselves also were not open to changes in the membership structure including allowing retirees and dismissed employees to be members of trade unions which in the present law are prohibited.

Malaysia's trade unionism was also benchmarked with ten countries from three main regions of Asia Pacific, Europe and America. The five elements used in this benchmarking exercise include current political and economic system and state of development, legal framework of trade unionism, trade unions and political affiliations, trade unions philosophies, structures and organisations, and roles, functions and services offered by trade unions. The outcome of the analysis were summarised in two continuums in which Malaysia's positions were found to be less favourable relative to most of the countries benchmarked.

A comprehensive study on trade unions effectiveness in Malaysia is a relatively new initiative that has significant implications on trade unionism in the country. The present study has provided a baseline for more studies of similar nature to be done in the future.

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